

HIGH COURT OF ALLAHABAD**Bench : SAURABH SHYAM SHAMSHERY, J.****Date of Decision: 24th May 2024**

CASE: WRIT – A No. – 20794 of 2022

WRIT – A No. – 17984 of 2023

Prof. Vijaishri Tiwari ...PETITIONER**Versus****Union of India and others ...RESPONDENTS****Legislation:**

The Indian Institutes of Information Technology Act, 2014

Statutes of Indian Institute of Information Technology

Subject: Challenges to the selection process for the post of Registrar at the Indian Institute of Information Technology, Allahabad (IIIT-A).**Headnotes:**

Administrative Law – Selection Process – Constitution of Committee – Deviation – Illegal constitution of the Selection Committee for the Registrar position at IIIT-A – Additional members included without approval from the Board of Governors (BoG) – Selection process included unauthorized written test (Case Study) not mentioned in the advertisement – Held, selection process was not in accordance with the prescribed procedure – Entire selection process declared void. [Paras 38-47]

Natural Justice – Opportunity to be Heard – Petitioner involved in the selection process while holding the position of Acting Registrar – Petitioner not entitled to be heard after BoG declared the selection process void – Petitioner's participation influenced the selection process – Decision of BoG to declare selection process void upheld. [Paras 47-48]

Appointment – No Indefeasible Right – Despite approval of petitioner's name by BoG, no appointment letter was issued – Selection process review on Central Government direction found deviations going to the root of the process – Petitioner failed to keep away from the process, influencing it

directly or indirectly – Challenge to voided selection process failed. [Paras 50-53]

Subsequent Recruitment – Fresh Process Near Conclusion – Petitioner’s non-participation in fresh recruitment on own will – No ground to interfere with the decision to declare earlier process void – Liberty to the Institute to allow petitioner’s participation in ongoing process if deemed fit. [Paras 54-55]

Decision – Writ petitions dismissed – Earlier selection process declared void due to procedural deviations and unauthorized influence by petitioner – Fresh recruitment process upheld. [Para 56]

Referred Cases:

- Kuntesh Gupta v. Management of Hindu Kanya Mahavidyalaya Sitapur and others, AIR 1987 SC 2186
- Kerala State Electricity Board v. Hindustan Construction Company Limited and others, 2006 (12) SCC 500
- Dr. Mohd. Suhail v. Chancellor, University of Allahabad and others, 1994 (2) UPLBEC 787
- Prabhu Narain Singh v. Deputy Director of Education, Varanasi, 1977 (3) ALR 391

CORAM : HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Petitioner before this Court is holding the post of Professor in Respondent-Institute, i.e., Indian Institute of Information Technology, Allahabad (hereinafter referred to as “IIIT, Allahabad”) and was handed over charge to the post of Registrar (Acting) of Institute on 01.12.2022 due to unfortunate demise of earlier Acting Registrar, Professor Shirshu Verma.

2. In order to appoint a permanent Registrar, the Institute has issued Advertisement dated 27.07.2021 advertising one post of Registrar and one post of Deputy Registrar. “General Instructions” for candidates, being relevant as mentioned in the advertisement, are reproduced hereinafter:

“GENERAL INSTRUCTIONS TO THE CANDIDATES

1. Preference will be given to 'Persons with Disabilities', even where reservation is not marked in the table given on 1st page of this advertisement, if suitable PwDs are available.
2. (a) The Institute reserves its right to place a reasonable limit by putting a certain criteria on the total number of candidates to be called for written test/presentation/seminar/Interview.
(b) Merely fulfillment of qualifications does not entitle a candidate to be called for written test/presentation/ seminar/Interview.
(c) The Institute reserves the right not to fill up the posts, cancel the Advt. in whole or in part without assigning any reason and its decision in this regard shall be final.
3. (a) The SC/ST and OBCS-NCL are required to attach a copy of the Caste Certificate with the application in the format prescribed by the Govt. of India.
(b) The Institute follows the reservation norms as per GOI rules for SC/ST/OBC and PwDs. Central Govt. approved list of SC, ST and OBC categories as applicable at IIT Allahabad.
4. Candidates must ensure before applying that they are eligible according to the criteria stipulated in the advertisement. If the candidate is found ineligible at any stage of recruitment process, he/she will be disqualified and their candidature will be cancelled. Hiding of Information or submitting false Information will lead to cancellation of candidature at any stage of recruitment. The Institute reserves the right to reject any application without assigning any reason whatsoever.
5. Candidates desirous of applying for more than one post should submit separate application for each post along with requisite application fees.
6. The Institute reserves the right to assign/transfer the selected candidates to any section/department within the Institute and appointments will be offered accordingly.
7. (a) The Institute reserves the right to relax any of the qualifications/ experience in exceptional cases.
(b) Higher initial basic pay may be given to exceptionally qualified and deserving candidate(s).
(c) Requirement of experience is relaxable at the discretion of the competent authority in the cases of SCs/STs.

8. The date of determining the eligibility of all candidates in every respect shall be the normal closing date of Advt.

9. The selection process will consist of:

(i) Presentation/Seminar & Interview for Sl. No. 1

(ii) Written Test/Presentation/Seminar and Interview for Sl. Nos. 2

10. Those candidates who will be shortlisted for the Interview will be paid to & fro journey fare by direct shortest route on submission of tickets in original as under:

Group-A posts at Sl. Nos. 1

AC-II (Rajdhani Exp. Also)/Chair car in Shatabdi Exp.

Group-A posts at Sl. Nos. 2

AC-III (Ra)dhani Exp. Also) / Chair car in Shatabdi Exp.

11. (a) The applicants shall be required to pay following application fee through the options of net banking and debit/credit cards, etc. In addition to application fee, the banks will also charge transaction fee + service tax if any.

Group-A posts at SL Nos. 1 to 2- Rs. 1000/-

(b) The fee once paid will not be refunded or re-adjusted under any circumstances.

(c) No other mode of payment will be accepted except online payment; and such applications will be relented forthright and the payment made shall stand forfeited.

12 (a) Institute will not be responsible for any postal delay.

(b) Interim correspondence will not be entertained or replied to.

(c) Any attempt to influence will lead to disqualification of candidature.

13. (a) The candidates are required to apply ONLINE only from 10:00 a.m. on 04.08.2021 to 24.09.2021 up to the midnight of 23:59 hrs. The applications sent in hard copies shall not be entertained in any case.

(b) For submission of application through online mode, please visit Institute's website:

<https://recruitment.iiita.ac.in/nonteachinglob/>.

(c) The print out of completed application along with all relevant supporting documents duly self attested must reach the Institute on or before 30.09.2021 through Speed Post or Registered Post

(d) Incomplete application or without relevant supporting enclosures or if received after closing date, i.e. 30.09.2021, will be summarily rejected and no further query will be entertained.

(e) Person serving In Govt./ Semi-Govt. / PSUs should also apply online and send the print out of completed application form along with all relevant supporting documents and transaction slip with date, duly self attested, THROUGH PROPER CHANNEL However, they may produce the NOC from their organizations at the time of Interview with an unambiguous certificate that (i) no vigilance case is pending/being contemplated against him/her, (ii) the applicant will be relieved within one month of receipt of appointment offer, if he/she is selected. List of Major/Minor penalties, if any, imposed during the last 10 years may be asked to submit at any time. Such persons are also advised to send an advance copy of their application, if applicable.

(f) The envelope containing complete application should be superscribed as "Application for the post of" and must be sent to Joint Registrar (Estt.), Establishment Section, Administration Building, IIT Allahabad-211015 (U.P.) INDIA.

14. In case of any dispute/ambiguity that may occur in the process of selection, decision of the Director, IIT Allahabad, shall be final.

15. Any legal proceedings in respect of any matter of claim or dispute arising out of this advertisement and/or an application in response thereto can be Instituted only in Prayagraj and courts/tribunals/forums at Prayagraj only shall have sole and exclusive jurisdiction to try and such cause/dispute."

3. For the purpose of present case Instruction No. 2 (a), (b), (c) and 9 are more relevant, therefore, the same are again reproduced hereinafter:

"2. (a) The Institute reserves its right to place a reasonable limit by putting a certain criteria on the total number of candidates to be called for written test/presentation/seminar/Interview.

(b) Merely fulfillment of qualifications does not entitle a candidate to be called for written test/presentation/ seminar/Interview.

(c) The Institute reserves the right not to fill up the posts, cancel the Advt. in whole or in part without assigning any reason and its decision in this regard shall be final.”

“9. The selection process will consist of:

(i) Presentation/Seminar & Interview for Sl. No. 1

(ii) Written Test/Presentation/Seminar and Interview for Sl. Nos. 2”

4. As referred above, selection process for post of Serial No. 1, i.e., Registrar was consist of Presentation/ Seminar and Interview, whereas selection process for the post of Deputy Registrar was consist of Written Test/ Presentation/ Seminar and Interview.

5. In pursuance of aforesaid advertisement petitioner applied for the post of Registrar. The Institute appointed a Screening Committee for screening applications and for further selection process by a note dated 20.09.2021 which consists of Chairman and Members and the note in its entirety is reproduced hereinafter:

“INDIAN INSTITUTE OF INFORMATION TECHNOLOGY ALLAHABAD

Establishment Section

September 20, 2021

NOTE

The Institute has advertised the posts of Registrar as per Advt. No. Estt/OpenRecruit/Reg- 02/2021 dated July 27, 2021 for IIIT Allahabad. As per our discussion, the following Committee may kindly be approved for screening the applications for further selection process:

1. Professor Rajiv Tripathi, Director, MNNIT, Ald : Chairman
2. Prof. N.K. Shukla, Registrar, AU, Ald. : Member
3. Prof. H. Kar, ECED, MNNIT Ald : Member
4. Prof. A.K. Sachan, CED, MNNIT Ald : Member

Submitted for approval please.

Kindly also approve the sitting charges and other convenience charges as applicable.”

6. A Selection Committee for the post of Registrar was constituted by a communication dated 26.10.2021 consisting of a Chairman and six Members. For reference the same is reproduced hereinafter:

“INDIAN INSTITUTE OF INFORMATION TECHNOLOGY ALLAHABAD

Office of Establishment Section

October 26, 2021

The Director

IIIT Allahabad

Subject: Constitution of Selection Committee for the post of Registrar

Sir.

Currently, we are in the process of selections for the post of Registrar in the institute. The interview date for the Registrar is scheduled on 12th November 2021. The following members for the Selection Committee is proposed for your kind approval

1. Prof. P. Nagabhushan, Director : Chairperson
2. Prof. K. Sethupathi, IIT Madras : Member
3. Prof. DVLN Somayajulu, Director, IIT Kurnool : Member
4. Shri S. Goverdhan Rao, Registrar, NIT Warangal : Member
5. Prof. R.C. Hansdah, IISc Bangalore : Member
6. Prof. S.A. Ansari, Ex Professor, Monirba : Member
7. Prof. Shekhar Verma, Dean HA, IJTA : Member

Kindly also approve the sitting charges, local hospitality and to & fro fare by train/flight (other than Air India, in case non-availability)”

7. The Screening Committee screened 52 candidates out of total 66 candidates. Thereafter Presentation Committee for the post of Registrar of Institute was constituted by a communication dated 09.11.2021 consisting of a Chairman and two Members. The said communication in its entirety is reproduced hereinafter:

“INDIAN INSTITUTE OF INFORMATION TECHNOLOGY ALLAHABAD

November 9, 2021

The Director

IIIT Allahabad

Subject: Approval of the Presentation Committee for the post of Registrar, IIIT Allahabad

Sir:

As per your direction, the following committee is proposed to conduct the presentation on 10th and 11th November 2021 for the post of Registrar, against the Advt No.Esstt./OpenRecruit/Reg- 02/2021 dated July 27, 2021.

1. Prof. Rajeev Tripathi, Director, MNNIT Allahabad : Chairman
2. Prof. A.K. Sachan, MNNIT, Allahabad : Member
3. Dr. Sarvesh K Tiwari, Registrar, MNNIT, Allahabad : Member

The above committee will also evaluate the case study analyzed by the candidates and take into account while assessing the overall performance in the presentation.

Submitted for your kind approval of the above committee please.

Also, please approve the sitting charges for the expert members, transport and hospitality for conducting the presentation on both days.

Thanking you,”

8. In furtherance of above communication petitioner and others were called for presentation for the post of Registrar. For reference call letter for said purpose issued to present petitioner is reproduced hereinafter:

“Prof. Vijaishri Tewari

2-Elgin Road, Civil Lines

Prayagraj (Allahabad), Uttar Pradesh-211001

Email:

Mob: +91-9415214707

Subject: Call Letter for Presentation for the post of Registrar at IIIT Allahabad

Dear Madam:

With reference to your application for the post of Registrar, you are required to appear for presentation before the designated committee as per below mentioned schedule:

Date: 10th November 2021

Time: 9:30 AM

Venue: Board Room, IIIT Allahabad Campus

You may deliver your 10 minutes presentation in 7-8 PPTs on one of the below mentioned topics:

- Institutional Development
- Self-sustaining, resource generation and funding
- NIRF Ranking
- General Govt Rules and Disciplinary proceedings

The PPT may have to be sent in advance, latest by 8th November 2021 to:

Those who qualify in the presentation will be called for the Interview on 12th November 2021 starting from 9:30 AM onwards. The list of short listed candidates will be floated on the IIIT Website as well as on the Notice Board of the IIIT-A Allahabad. No separate individual Information will be provided. All are requested to watch the website and come prepared to stay for extra days to attend the interview on 12th November 2021 subject to qualifying the presentation.

Please note that TA will be paid to only those candidates who will qualify for the Interview on the submission of bills.

Visitors' Hostel accommodation may be provided by the IIIT Allahabad campus subject to availability. You may contact to Mr Deep Narain Das (Caretaker), regarding availability for lodging etc. His contact No.: 0532-292 2369, 2382 and email is: (Food expenses have to be borne by you only).

Please bring with you all original certificate(s), mark Sheet(s), caste certificate, testimonials and other relevant papers (e.g., experience certificate(s) mentioning the date of joining and date of leaving). Also, in case you have not submitted photocopies of your educational and experience documents, please bring a set of self attested photocopies of relevant documents that you have mentioned in the application form.

In case you are an employee of a Govt/Semi-Govt/Institute and your application has not been forwarded through proper channel, please provide a

"NO OBJECTION CERTIFICATE" from your present employer, otherwise you will not be permitted to appear for presentation/Interview.

For any query/correspondence, you may contact to Shri Neeraj Srivastava (0532-292 2550); email:

Yours Sincerely,

Pavan Kumar Saini

Joint Registrar”

9. Petitioner and other candidates appeared for presentation on 10.11.2021 as well as on 11.11.2021.

10. Above referred Selection Committee was supposedly constituted in terms of Clause 9(5) of Statutes of Indian Institutes of Information Technology and for reference Clause 9 in its entirety is also reproduced hereinafter:

“9. Appointments. (1) All faculty posts at the Institute shall be filled by an open advertisement in accordance with the procedures of the Government of India and all other positions shall be filled as per the recruitment rules of the institute approved by the Board and all services rendered by Group D level shall be made by outsourcing or contract.

(2) The probation of new recruits, other than Assistant Professor, shall be for a period of one year and for new recruit Assistant Professor shall be of two years.

(3) The Institute shall make necessary provisions for the reservation of posts as laid down by the Central Government.

(4) The Selection Committee in case of Professors shall consist of the following members, namely:-

(i) The Director; Chairperson

(ii) One nominee of the Visitor; Member

(iii) Two experts from the panel of experts a priori approved by the Board; Members

(iv) One expert nominated by the Senate from the panel of Senate experts; Member

Note: One Scheduled Castes or Scheduled Tribes member shall be nominated by the Board, if none of other members belong to the Scheduled Castes or Scheduled Tribes category.

(5) The Selection Committee in the case of the post of Associate Professor including on- contract, Librarian, Deputy Librarian, Assistant Librarian, Registrar, Deputy Registrar, Assistant Registrar, Institute Engineer, Sports Officer, Assistant Sports Officer, Chief Medical Officer, Medical Officer, Accounts Officer, Audit Officer, Estate Officer shall be as under:-

(i) The Director-Chairperson;

(ii) Two experts nominated by the Board - Members;

(iii) One expert nominated by the senate - Member,

(iv) The Head of the Department or Centre or School or Unit concerned, if the post for which selection is being made is lower in status than that occupied by the Head of the Department or Centre or School or Unit, or, the Chairperson, Senate Library Committee of the Institute, for the posts of Librarian, Deputy Librarian and Assistant Librarian, or an administrative or sports or medical or engineering or accounts or audit or estate expert of appropriate level to be nominated by the Board for the post of Registrar or Sports Officer or Chief Medical Officer or Institute Engineer or Accounts Officer or Audit Officer or Estate Officer.

(v) Registrar, for the post of Deputy Registrar and Assistant Registrar or Sports Officer for the post of Assistant Sports Officer or Chief Medical Officer for the post of Medical Officer.

Note: One Scheduled Castes or Scheduled Tribes member needs to be nominated by the Board, if none of other members belong to Scheduled Castes or Scheduled Tribes category.

(6) The Selection Committee for all other posts shall be as under:-

(i) The Director or his nominee appropriate to the post - Chairperson;

(ii) One nominee of the Board-Member,

(iii) One expert nominated by the Board from list of Board experts-Member,

(iv) One expert nominated by the senate from list of Senate expert - Member,

(v) Head of the Department or Centre or Discipline or School or Unit concerned in case of posts not covered in any Department or Centre or Discipline or School or Unit, the authority to which the incumbent of the said post reports shall be included as Member.

Note: One Scheduled Castes or Scheduled Tribes member shall be nominated by the Board, if none of other members belong to Scheduled Castes or Scheduled Tribes category.

(7) The list of experts nominated by the Board and the list of experts nominated by the Senate shall be a priori approved by the Board and Senate, respectively

(8) For a Department or Centre or School, there shall be one list each of the Board and the Senate experts

Provided that if the Department or Centre or School is mandated by the Board to have faculty members from different disciplines, then there shall be one list each of Board and Senate experts for each discipline, and candidates from a discipline shall have experts from that discipline.

(9) The Director may constitute a suitable Screening Committee to consider all applications received by the Institute for filling of posts and the Screening Committee shall recommend candidates fulfilling the eligibility criterion, along with the relaxations granted by the Board, for the consideration of the Selection Committee.

Provided that a detailed summary of all applications received by the Institute shall be made by the screening committee and presented by it before the selection committee for its acceptance or rejection or modification,

Provided further that the screening committee shall assign specific reason of each application:

Provided also that the selection committee may consider the candidature of an applicant that was not recommended by the screening committee, after recording the reasons for doing so.

(10) All appointments made by the Institute on regular or contractual or temporary positions shall be reported to the Board at its next meeting.”

11. As referred in Clause 9(5) of Statutes the Selection Committee for the post of Registrar consists of a Chairman and four Members and, therefore, constitution of Selection Committee constituted on 26.10.2021, wherein instead of a Chairman and four Members its constitution was a Chairman and six Members, on face of it was not exactly in terms of Clause 9(5) of Statutes.

12. In reference to above paragraphs No. 35, 36 and 37 of counter affidavit filed in Writ-A No. 20794 of 2022 are relevant and the same are reproduced hereinafter:

“35. That, it is necessary to mention here that from the aforesaid constitution of the Selection Committee, it could be verified that out of 7 members, three members were not approved by the Board of Governors/Senate, they are Prof. DVLN, Somayajulu Director of IIIT Kurnool, Shri S. Goverdhan Rao, Registrar, NIT Warangal (Member), Prof. Shekhar Verma, Dean HA, IIIT A (Member). The clause 9(7) provides that the list of experts nominated by the Board and the list of experts nominated by the Senate shall be a priori approved by the Board and Senate, respectively.

In view of aforesaid, inclusion of alleged other mentioned members, the Selection Committee becomes completely illegal and acts without jurisdiction.

A copy of the list of the experts nominated by the Board and by the Senate is being filed herewith and marked as Annexure No. 9 to this affidavit.

36. That, in order to give the reasons why aforesaid persons were not eligible to become the members, it may be noted that as per the Statute 9(5), the First member is Director i.e. Chairperson, Second-two expert Members Prof. K. Sethupathi, IIT, Madras, R.C. Hansdah also under SC/ST (nominated by the Board) and third member nominated by the Senate Professor S.A Ansari, Ex-Professor MONIRBA Allahabad for which there is no dispute. In the fourth category Head of the department or center or school or unit, the Member referred for Selection Committee Prof. Shekhar Verma in this category, the name given is neither qualified/eligible nor approved by the Board of Governors. Fifth member was vacant as Registrar herself was candidate.

37 That other than the above, Prof. DVLN, Somayajulu Director IIIT, Kurnool, was neither member nor nominated by the Board of Governors and illegally participated. Sri S. Goverdhan Rao Registrar, NIT, Warangal, was neither member nor approved by the Board of Governors in any category and illegally participated. From the aforesaid it is clear that 02 members were outsiders and neither approved nor authorized by the Board of Governors. Further so far as member in reference to category 04 is concerned, 4th member Prof. Shekhar Verma was neither eligible nor approved by the Board of Governors.”

13. In pursuance of call letter for presentation number of candidates appeared on 10.11.2021 and 11.11.2021 and a tabulation chart was prepared giving marks out of 50 under two different criteria, i.e., (a) case study marks (out of 25), (b) presentation marks (out of 25) and (c) total marks obtained (out of 50).

14. At this stage, it would be relevant to mention that according to petitioner the two criteria stipulated, i.e., “Case Study” and “Presentation” was in terms of advertisement issued for the post of Registrar. As earlier referred, as per Clause 9 of General Instructions to candidates, the selection process for the post of Registrar would consists of Presentation/Seminar and Interview whereas it is the case of Institute that under criteria “Case Study” it was a written examination for maximum marks of 25, which was not included in selection process for the post of Registrar though it was included for selection process to the post of Deputy Registrar. The Court will consider later on the effect of Clause 2 of General Instructions which provides that Institute reserves its right to place a reasonable limit by putting a certain criteria on the total number of candidates to be called for written test/ presentation/ seminar/ interview and as such the Court will also consider effect of written test being included in selection process for the post of Registrar.

15. The Presentation Committee of a Chairman and two Members drawn minutes for selection on the post of Registrar as per candidates appeared before said Committee on 10.11.2011 and 11.11.2021 and on basis of total marks obtained (Case Study and Presentation) it recommends names of seven candidates as qualified for post of Registrar for Interview. The said minutes of meeting dated 11.11.2021 is reproduced hereinafter:

“INDIAN INSTITUTE OF INFORMATION TECHNOLOGY ALLAHABAD
ESTABLISHMENT SECTION

Ref. No. IIITA/Estt./2021/.3.5.3

Date: November 11, 2021

MINUTES OF THE MEETING OF PRESENTATION COMMITTEE FOR THE POST OF REGISTRAR (01-UR POSITION) IN THE PAY MATRIX LEVEL-14 AS PER 7th CPC HELD ON 10.11.2021 & 11.11.2021 IN THE BOARD ROOM OF INDIAN INSTITUTE OF INFORMATION TECHNOLOGY ALLAHABAD, AGAINST THE ADVT. NO Estt/OpenRecruit/Reg-02/2021 DATED JULY 27, 2021,

Following Presentation Committee Members were Present:

Prof. Rajeev Tripathi, Director, MNNIT Allahabad : The Chairman

Prof A K Sachan CED, MNNIT Allahabad : Member

Dr Sarvesh Kr. Trwani, Registrar, MNNIT Allahabad : Member

A total of 66 (nos) of applications were received for the said position. After scrutiny of all the applications, 52 Candidates were provisionally shortlisted and called for the presentation held on 10.11.2021 & 11.11.2021 at the Board Room IIIT Allahabad, 14 nos of candidates out of 25 were appeared in the presentation on 10.11.2021 & 10 nos of candidates out of 27 were appeared in the presentation on 11.11.2021 at the Board Room, IIIT Allahabad. A total of 24 candidates have appeared in presentation and solving case studies in both days.

The Presentation Committee tabulated the marks obtained in Presentation including Case Studies. On the basis of marks obtained, the presentation committee recommends the following candidates as qualified to be called for the interview for the post of Registrar in the pay matrix level-14 as per 7th CPC:

1. Prof Vijaishri Tewari
2. Shri Pranab Kumar Sarkar
3. Dr. Shyam Narayan
4. Dr. Brajraj Singh
5. Dr. Ajit Singh
6. Shri Krishan Kumar Tiwari
7. Dr. Atul Kumar Sharan”

16. At this stage it would be relevant to mention that it was the submission of Institute that Presentation Committee has to forward names of all candidates appeared before said Committee as it would be obligation of Selection Committee to call the candidates for interview though it has not been denied that above referred names of seven candidates were on basis of merit.

17. At this stage it would also be relevant to note submission of Institute that by putting name of petitioner at Serial No. 1 a favour was given to her but it has no substance from below referred tabulation of marks dated 10.11.2021 and 11.11.2021 wherein names of top seven candidates are mentioned in serial and petitioner at Serial No. 5 obtained higher marks alongwith some other candidates was the first candidate qualified in said seven candidates. For reference said charts dated 10.11.2021 and 11.11.2021 are reproduced hereinafter:

Date: 10.11.2021

List of Candidates called for presentation on 10th November 2021 at 9:30 AM onwards

for the post of Registrar against the Advt. No. Estt/OpenRecruit/Reg-02/2021 dated July 27, 2021

S.N

Application ID

Name of Candidate

Case Study Marks

(Out of 25)

Presentation Marks

(Out of 25)

Total Marks Obtained

(Out of 50)

1.

733018381007

Kailash Bansal

15

14

29

2.

733030481002

Ganesh Prasad M S

15

12

27

3.

733080481007

Col Dr Mainpal Singh

17

14

31

4.

733003481002

Mahesh Kumar

17

13

30

5.

733023481004

Vijaishri Tewari

19

22

41

6.

733028481009

Prateek Sahai

12

12

24

7.

733089481007

Pranab Kumar Sarkar

20

18

38

8.

733050581005

SI Harikumar

16

15

31

9.

733085581004

Shyam Narayan

21

18

39

10.

733097581007

Pankaj Saxena

16

14

30

11.

733031681005

Ashok Kumar Kanojia

14

12

26

12.

733003681004

Maneesh Sharma

16

16

32

13.

733045781002

Brajraj Singh

20

21

41

14.

733014381003

Omkar Singh

17

14

31

Date: 11.11.2021

List of Candidates called for presentation on 11th November 2021 at 9:30 AM
onwards

for the post of Registrar against the Advt. No. Estt/OpenRecruit/Reg-02/2021

dated July 27, 2021

S.N

Application ID

Name of Candidate

Case Study Marks

(Out of 25)

Presentation Marks

(Out of 25)

Total Marks Obtained

(Out of 50)

1.

733000981004

Jagat Singh Rana

15

14

29

2.

733051981001

Nilesh Bipinchandra Chaudhari

12

13

25

3.

733015981001

Paramjit Singh Gothra

12

15

27

4.

733037981005

Ajit Singh

20

20

40

5.

733097091003

Satyendu Mohan Srivastava

17

13

30

6.

733058091009

Krishan Kumar Tiwari

20

21

41

7.

733025191004

Dara Singh Vohra

14

14

28

8.

733048191009

Pawan Kumar Dube

17

13

30

9.

733050291003

Desh Deepak Sharma

13

13

26

10.

733048381001

Dr. Atul Kumar Sharan

19

22

41

18. It would be relevant to mention Clause 9(9) of Statutes which refers that Screening Committee will consider all applications received by the Institute for filling of posts and the Screening Committee shall recommend candidates fulfilling the eligibility criterion, alongwith the relaxations granted by Board for consideration of Selection Committee.

19. There are rival submissions on the issue that Screening Committee has violated the above referred procedure by submitting names of only seven candidates selected for interview and though out come of consideration of all candidates might be same but procedure prescribed has not been followed in its entirety and that there is no adverse effect on candidates whose names were not forwarded for interview by Screening Committee to Selection Committee. The other details such as, total number of applications received, number of candidates left after scrutinization and out of 52 candidates only 24 appeared in presentation and case study and details of marks obtained by all 24 candidates were also referred to Selection Committee.

20. The Selection Committee considered names of seven candidates recommended by Screening Committee for post of Registrar and unanimously resolved in 7th CPC held on 12.11.2021 to appoint petitioner on the post of Registrar. Sri Krishna Kumar Tiwari was put under waiting list.

Details of criteria adopted or marks obtained in interview are not on record, therefore, Court is not aware how petitioner was finally selected since few candidates including petitioner got same marks in presentation. The minutes of meeting of Selection Committee for the post of Registrar dated 12.11.2021 is reproduced in its entirety hereinafter:

“INDIAN INSTITUTE OF INFORMATION TECHNOLOGY ALLAHABAD
ESTABLISHMENT SECTION

Ref. No. IIITA/Estt/2021/

Date: November 12, 2021

MINUTES OF THE MEETING OF SELECTION COMMITTEE FOR THE POST OF REGISTRAR (01-UR POSITION) IN THE PAY MATRIX LEVEL-14 AS PER 7 CPC HELD ON 12.11 2021 IN THE CONFERENCE ROOM, SECOND FLOOR, ADMIN EXT I OF INDIAN INSTITUTE OF INFORMATION TECHNOLOGY ALLAHABAD, AGAINST THE ADVT. NO. Estt/OpenRecruit/Reg-02/2021 DATED JULY 27, 2021

Following Selection Committee Members were Present:

Prof. P. Nagabhushan, Director : The Chairman

Prof. K. Sethupathi, IIT Madras : Member

Prof. DVLN Somayajulu, Director, IIIT Kurnool : Member

Prof. R.C. Hansdah, IISc Bangalore : Member

Prof. S.A. Ansari, Ex Professor, Monirba, Alld.: Member

Prof. Shekhar Verma, Dean HA, IIITA : Member

Shri S. Goverdhan Rao. Registrar, NIT Warangal : Member

A total of 66 (nos.) of applications were received for the said position. After scrutiny of all the applications, 52 candidates were provisionally shortlisted and called for the presentation held on 10.11.2021 & 11.11.2021 at the Board Room, IIIT Allahabad. 14 nos, of candidates out of 25 appeared in the presentation on 10.11.2021 10 nos of candidates out of 27 appeared in the presentation on 11 11.2021 at the Board Room, IIIT Allahabad. A total of 24 candidates have appeared in presentation and solving case studies on both days

Presentation Committee tabulated the marks obtained in Presentation Including Case Studies. On the basis of marks obtained, the presentation

committee recommended the following candidates as qualified to be called for the Interview on 12.11.2021 at IIIT Allahabad:

1. Prof Vijaishri Tewari
2. Shri Pranab Kumar Sarkar
3. Dr. Shyam Narayan
4. Dr. Brajraj Singh
5. Dr. Ajit Singh
6. Shri Krishan Kumar Tiwari
7. Dr. Atul Kumar Sharan

The following 07 candidates appeared in the Interview for the post of Registrar held on 12.11.2021 at reference Room, Second Floor, Admin Ext.- I, IIIT Allahabad

1. Prof Vijaishri Tewari
2. Shri Pranab Kumar Sarkar
3. Dr. Shyam Narayan
4. Dr. Brajraj Singh
5. Dr. Ajit Singh
6. Shri Krishan Kumar Tiwari
7. Dr. Atul Kumar Sharan

On the basis of performance in the interview held on 12.11.2021 recommends the following candidate for the post of Registrar in the pay matrix level-14 as per 7th CPC

1. Prof. Vijayshri Tiwari UR Category

Waiting List

1. Shri Krishan Kumar Tiwari

Additional conditions stipulated by the selection committee, if any.

1. The performance may be reviewed by the BoG of IIIT-A to the end of the first year.
2. The Honorable BoG may consider to allow Prof. Vijayshri Tiwari to be associated with her academic dept in adjunct capacity.”

21. Learned counsel for rival parties have also referred the additional condition stipulated by Selection Committee so far as petitioner is concerned, as referred above, that it was recommended that Hon'ble Board of Governors may consider to allow petitioner to be associated with her academic department in adjunct capacity.

22. It is the case of Respondent-Institute that aforesaid recommendation was stranger to procedure and petitioner being officiating Registrar has influenced the entire exercise of selection in one or other way whereas it is the case of petitioner that entire process was fair, there was no influence of petitioner and above condition was only a recommendation and it was upto BoG to act upon or not.

23. In continuation of above recommendation the 20th Meeting of Board of Governors took place on 11.01.2022 wherein petitioner being Acting Registrar has also participated. Agenda No. 20.16 was to consider and approve the Selection Committee's report for vacancies in Administrative Cadre for the post of Registrar and Deputy Registrar and sealed cover envelop was opened and BoG after due deliberation approved recommendation of Selection Committee to appoint petitioner on the post of Registrar and on the point that petitioner to be associated with her academic department in adjunct capacity was not discussed and dropped. The said minutes of meeting with regard to Agenda No. 20.16 is reproduced in its entirety hereinafter:

"20.16 To consider and approve the Selection Committee Report for Vacancies in Administrative Cadre for the post of Registrar and Deputy Registrar

Comments of Technical Section, MoE: The Board is the appointing authority for the post of Registrar and Dy. Registrar. The report of the Selection Committee will be placed on table in a sealed envelope. Board may deliberate and take decision as per RPN rules-2016. Silent features of these posts as per RPN-2016, are as under.-

The GP for Registrar and Dy. Registrar will be Rs. 10,000/- and Rs.7600/- (as per 6th CPC). General age limit for Gp.-A with GP. Rs.7600/- and above - 55 years. The post of the Registrar should be filled only through Contract appointment and for a period of 3 years only. However, when a person from outside is recruited, his/her appointment may be for a period of 3 years initially and on satisfactory completion of the term of service as determined by a committee duly constituted by the Board, the services may be extended for another term of 2 years only. The total term shall not exceed five years

Resolution:

Prof. Vijaishri Tewari, Registrar (Acting) was requested to leave the meeting for this particular Agenda as she was also one of the applicants for the post of Registrar. Dr. Pavan Kumar Saini, Joint Registrar was requested to join the meeting to clarify the doubts of the members regarding this Agenda Item.

The sealed envelope was opened before the members by the Director, IIT-Allahabad who was the Chairman of the Selection Committee. After due deliberations on various issues, the BoG approved the recommendations of the Selection Committee for the post of Registrar Prof. Vijaishri Tewari and for the post of Deputy Registrar - Sh. Santosh Mahobia, However, the point that Prof. Vijaishri Tewari to be associated with her academic department in adjunct capacity was not discussed in the meeting hence it is being dropped.”

24. Sri G.K. Singh, learned Senior Advocate appearing for petitioner has pointed out that before consideration of Selection Committee’s report petitioner being a candidate to it was requested to leave the meeting and only thereafter envelop was opened and, therefore, there was no influence of petitioner in the process and other issue of petitioner with regard to her association with academic department in adjunct capacity was not discussed and dropped.

25. Learned Senior Advocate for petitioner also submitted that entire procedure, as referred above, was fairly conducted without any influence of petitioner and no complaint whatsoever was made by any candidate participated in selection process. Flaw, if any, in constitution of Selection Committee where two additional Members were appointed, has no adverse effect and since entire selection process was unanimous, therefore, it may be an irregularity but not an illegality. After aforesaid approval the only process left was to issue an appointment letter to petitioner, however, it appears that since a Model Code of Conduct was enforced, appointment letter was not issued immediately.

26. A controversy commenced with regard to selection of post of Registrar and approval of name of petitioner for said post when a complaint was made on 07.01.2022 by a completely outsider. The complaint was forwarded by the Office of Ministry of Education, Department of Higher Education, Government of India, New Delhi. The contents of complaint is reproduced hereinafter in its entirety:

“Dear Sir,

We are writing this letter to disclose the following dishonest activities of Director, IIIT Allahabad, Dr P Nagabhushan:

1. Dr Vijaishri Tiwari who is daughter of Mr Pramod Tiwari, Ex Member of Parliament (Rajya Sabha) of Congress Party, is recently appointed as Professor in IIIT Allahabad in the month of March 2021. Dr Vijaishri Tiwari is still on probation.
2. On 27 July 2021, IIIT Allahabad advertised the post of Registrar, for which last date of application was 30th September 2021. Dr Vijayshri Tiwari applied for this post also. Although, she was on the probation till March 2022. Without completing the probation, an employee cannot be given NOC for applying another post. Hence, she cannot be provided NOC for applying any post during probation. But, without following the rules and regulation, Director IIIT Allahabad gave her NOC.
3. It is clear rule of that any deputation or leave cannot be given for lower grade-pay position. She is working as Professor, whose grade pay is 10,500/- , while grade pay of Registrar is Rs 10,000/-.Hence, Director, IIIT Allahabad has violated the rule in providing NOC to Dr Vijaishri Tiwari for the post of Registrar.
4. Department of personnel and Training, though his etter 17th June 2010 has clarified at point no 3.3 that: "A person in a higher Grade Pay/scale of pay shall not be appointed on deputation to a post in lower Grade Pay/scale of pay.."
5. According to the clause no. 11 of the First Statutes of IIIT Allahabad; "The matters which are not covered by above rules shall be dealt with in terms of Central Civil Services Rules."
6. Hence, Director of IIIT Allahabad has violated the IIIT Statutes, Central Civil Services Rules and Probation rules for providing NOC to Dr Vijaishri Tiwari.
7. There were more than 40 applications for the post of Registrar. Many of them are already working as Registrar in reputed organizations like IIT Kanpur, High Court, IITs and esteemed organizations.
8. Director IIIT Allahabad has violated the rules only to select Dr Vijayshri Tiwari as he is in the influence of her father Mr Pramod Tiwari, Ex Member of Parliament of Congress Party.
9. Director IIIT Allahabad, has already dishonestly appointed her as Professor without following the roster and disobeying the "Central Educational

Institutions (RESERVATION IN TEACHERS' CADRE) Act, 2019". It is essential to mention here that MHRD vide its letters Dated 25.1.2000, 17.5.2000, 22.3.2001, 10.11.2003, 6.12.2006 sanctioned 02,01,05,07 and 03 posts of Professors respectively to IIIT Allahabad. Hence, there are total 18 sanctioned posts of Professors, out of which only 9 posts of professors are for general category. After commencement of CEI Act 2019, as per the instruction of ministry, IIIT Allahabad prepared the roster on 21" November 2019 with the signature of Director and Registrar and sent to ministry, according to which out of 9 unreserved posts of professors, 7 posts are filled and 2 posts are vacant.

10. In March 2021, Director IIIT Allahabad knowingly changed the roster and appointed 7 Professors of General Category, while there was only two vacant positions of Professor in general category. Hence, Director IIIT Allahabad disobeyed the CEI Act-2019 of Parliament only to select Dr Vijayshri Tiwari as Professor. It is not known that why ministry could not notice these violations. Secretary or Additional secretary level officer or his representative attends the meetings of BOG, while approving the appointments done by the CFTI's.

11. Previously, on 4th December 2017, Director Dr Nahabhushan had given the charge of Registrar for one year to a temporary Teacher, Mr Channappa B Akki. Several financial irregularities were done in that period.

Hence, considering the above facts, it is requested that selection process on the post of Registrar should be stopped and Ministry should constitute an independent enquiry against Director, IIIT Allahabad for his unfair acts in selection process of Registrar and other positions.

It is also requested to the Board of Governors of IIIT Allahabad should not give approval on the selection of Registrar in the coming meeting of BOG scheduled Dated 11th January 2022, till the outcome of enquiry."

27. The Institute has taken cognizance of above referred complaint as referred by Ministry of Education, Union of India, and constituted a four Members Committee who submitted its report dated 01.02.2022 whereby all allegations raised in complaint were rejected and for reference the same in its entirety is reproduced hereinafter:

"Hon'ble Director IIITA constituted this committee to examine and prepare the point wise reply to the letter received from Ministry of Education (MoE) regarding the alleged complaints received from one Mr Om Prakash Pandey

through email Dated 7th January 2022 with subject: "Regarding illegal and unfair Selection process adopted by Director, IIIT Allahabad in the selection of Registrar, IIIT Allahabad to appoint Dr Vijaishri Tiwari (Daughter of Ex Member of Parliament of Congress Party, Mr Pramod Tiwari) on the post of Registrar"

The committee suggests the following:

1. Response to Q.1: The statements mentioned in point 1, are matter of fact and hence, needs no explanation. It doesn't carry any interpretation towards the allegation made by the complainant

2. Response to Q.2: The selection of Registrar of IIIT Allahabad has been questioned by the complainant primarily on the ground that Dr. Vijayshri Tiwari was given no objection certificate for applying against the aforesaid post illegally by the Director of the institute. It is alleged by the complainant that Dr. Tiwari was appointed as a Professor in IIIT, Allahabad in the month of March. 2021 and she continues to be on probation. According to the complainant a probationer could not have been given no objection certificate for applying against another post by the Director as per the Rules and therefore the no objection certificate granted to her by the Director, IIIT, Allahabad is illegal and consequently her selection as Registrar is also illegal.

The aforesaid allegation made by the complainant is totally misconceived. In as much as under the Rules Dr. Vijayshri Tiwari since was employed in the same establishment, was neither required to submit a no objection certificate nor was she given any no objection certificate by the Director. A no objection certificate is required to be submitted by a candidate only when he/she applies for a post which is in an establishment other than the one in which he/she is working. The object of having a no objection certificate from the employer is only to see that an employee does not leave the establishment in which he /she is working without the consent/knowledge of his employer. In the present case, Dr. Tiwari is currently working as a Professor in the same establishment and therefore she was not required to furnish any no objection certificate with her application

3. Response to Q.3, Q.4, Q.5 and Q.6

It is also alleged by the complainant that Dr. Tiwari could not be sent on deputation or leave cannot be given to her for joining a post which is there in the lower grade. According to him, she being a Professor could not be allowed to join the post of Registrar, which is a post of lower grade. The complainant

is not right in saying that in as much as the post of Professor and the post of Registrar of the institute are of the same level. The pay level of Registrar and Professor is equal i.e. Pay level 14 and Pay Level 14A for academic staff respectively. In fact a majority of University employs the Senior Professor as Registrar In-Charge in case of unavailability of a full time Registrar. It is because of the fact that both the position are of similar pay level. Secondly Dr. Tiwari is not going to the post of Registrar on deputation. From the aforesaid it is therefore clear that there is no illegality or irregularity in the selection of Dr. Vijayshri Tiwari at all.

4. Response to Q.7, Q.8: The facts need correction and the number of applications has no correlation with the said complaints. The logic and rational behind the said allegation is apparently misleading and highly prejudice.

5. Response to Q.9 and Q. 10: The statements in the above said point is misleading and erroneous. The detailed explanations for similar communications were provided to your good office earlier. The reply was also placed before Hon'ble BoG of the institute and after the satisfaction and approval of the members and Chairman of the BoG the same roster was implemented against which the appointments were carried out.

6. Response to Q. 11: The said engagement of Prof. Akki in the post of Registrar In charge is a well know fact, however, the allegation of corruption is a false and misleading statement as it doesn't have any evidence whatsoever to justify the alleged complaint.

Endorsing considering that-

1) The statements made in this report are factually verified and found to be true by the Dean (IITA) with respect to its legal merit vis-a-vis the service rules of IIT A.

2)The marked portion may be so verified.”

28. Thereafter Ministry of Education again send letter dated 10.03.2022, which is not on record, requiring Institute to justify the appointment of petitioner. The Institute took cognizance of said letter also and constituted a four Members Committee who again considered material and submitted report dated 01.04.2022 and again all allegations were denied. Report dated 01.04.2022 is also reproduced hereinafter:

“Committee's Report on MOE's Letter

This is in reference to the letter received from the Ministry of Education (MoE) with the letter F. No. 46-12/2016-TS-1, dated 10th March 2022, with the subject "Selection of Registrar at IIIT Allahabad".

As per the direction communicated by the Office of the MoE, the pointwise reply is as follows:

1. Dr. Vijayshri Tiwari has applied for the post of Registrar as per the Advertisement dated July 27, 2021. Dr. Tiwari was under probation on the post of Professor from 23.03.2021 to 22.03.2022. Dr. Tiwari is working in the same establishment while applying for the post of Registrar and therefore she was not required to furnish any no-objection certificate with her application.

II. The post of Professor and the post of Registrar of the institute are of the same pay level. The pay level of Registrar and Professor is equal i.e. Pay level 14 and Pay Level 14A for academic staff respectively. In fact, a majority of Universities employ the Senior Professor as Registrar In-Charge in case of unavailability of a full-time Registrar. It is because of the fact that both the positions are of similar pay levels.

III. The eligibilities for the post of the Registrar advertised on July 27, 2021, were taken from the RPN-2016 only (copy of the Advertisement and extract of the RPN-2016 enclosed for your reference). Please also refer to the enclosed page 6 of the RPN-2016. Later as per the decision taken in the 4th Council Meeting held on 16th October 2019 vide Agenda Item No. 4.14 (Copy enclosed) uniform contract period of 5 years for the post of Registrar in CF-IIITs was approved. Accordingly, the tenure UPTO 05 years was advertised.

IV. Institute follows the decision of IIIT Council, however, in the present case it was general advice of the council. IIIT Allahabad has advertised for the post of Registrar earlier too following the decision of the 4th IIT Council Meeting. Due to the NFS (no one found suitable) scenario, it has issued a fresh advertisement on July 27, 2021. Since the direction by the IIIT council was advisory in nature, the matter was discussed in BOG before bringing up the advertisement.

V IIIT Allahabad maintains the roster as per the norms laid by Gol. The detailed explanations for similar communication were provided to your good office earlier too. The reply was also placed before the Hon'ble BoG of the institute and after the satisfaction and approval of the members and Chairman of the BoG the same roster was implemented against which the appointments

were carried out. A copy of the reservation roster followed up at IIIT Allahabad is attached.

VI. This is to put it on record that no caveat has been filed for the said advertisement.

VII. The constitution of the selection committee as per the Act and Approved Selection Committee for Registrar post is enclosed. The member in the list of the Selection Committee was approved by the Director. The relevant list of BoG and Senate Nominees approved by the BOG for teaching and non-teaching positions is also enclosed for your reference. The same procedure, was also followed earlier when the position was advertised.”

29. In pursuance of above referred reports of committees the Ministry of Education by a communication dated 07.04.2022 addressed to Director of Institute has again raised some queries and sought pointwise reply from Institute. For reference said letter is reproduced hereinafter:

“F. No. 45-12/2016-TS.1

Government of India

Ministry of Education

Department of Higher Education

Technical Section – 1

Shastri Bhawan, New Delhi

Dated: 7th April, 2022

To,

Prof. R S Verma,

Director, MNNIT Allahabad and

Director In-charge, IIIT Allahabad

Email:

Subject: Selection of Registrar at IIIT Allahabad-reg.

Sir,

I am directed to refer to this Ministry's letter of even number dated 20.01.2022 & 16.03.2022 and email dated 01.04.2022 of Prof. P. Nagabhushan, Ex-Director, IT Allahabad forwarding therewith reply of the Institute on the

complaints of irregularity in selection to the post of Registrar in IIIT Allahabad. The comments of the Institute have been examined in the Ministry and following observations have been found:

(i) A copy of appointment letter/offer of appointment/contract of service in the post of Professor may be provided.

(ii) Whether Prof. Vijayshri Tewari applied for the post of Registrar through proper channel? If yes, a copy of the forwarding letter/endorsement may be provided.

(iii) When was Prof. Tewari promoted to the post of Professor and a copy of the Roster placing her in proper place at the time of promotion and number of vacancies prevailing at that time in each category,

(iv) Whether constitution of the Selection Committee for the post of Registrar is in accordance with the provisions given in the Statutes of IIIT Allahabad. If yes, approval/Minutes of the BoG may be provided. Also, names of the members against each category of nomination as per provision in the Statutes of IIIT Allahabad may be provided.

2. It is requested to furnish point-wise reply on the above observation to this Ministry immediately.

Yours faithfully,

Enclosure: As above.

Prashant Agarwal

Director (IITs)”

30. In aforesaid circumstances petitioner approached this Court by way of filing Writ-A No. 16967 of 2022 with a prayer to issue appointment letter in pursuance of process undertaken and approval of appointment of petitioner on the post of Registrar. During hearing impugned minutes of 21st Board of Governors Special Meeting dated 02.11.2022 signed by its Members on 09.11.2022 was placed on record wherein resolution adopted on Agenda Item 21.02 was referred whereby report by Fact Finding Committee, as constituted by Chairman, Board of Governors was considered and Board resolved as follows:

“(I) Accept the recommendations presented through the two reports submitted by the Fact Finding Committee,

(II) Accept that the selection process for Registrar and Deputy Registrar IIIT Allahabad was flawed.

(III) Further the members of the Board of Governors agreed that the Director shall start the process of setting up a new advertisement for the selection of the Registrar and Deputy Registrar of IIIT Allahabad following norms laid down by the IIITA Statutes and the IIIT Council.

(IV) The institute should proactively try to resolve the issues and resentments among the stakeholder's about the functioning of the Acting Registrar.”

31. The two Members Committee's reports dated 01.10.2022 on appointment of Registrar, IIIT Allahabad and 17.10.2022 allegations against the Professor-in-Charge, Registrar, IIIT Allahabad are reproduced hereinafter:

“Report on the Appointment of the Registrar. IIIT Allahabad

Date 01.10.2022

The following fact-finding committee was constituted by the Chairperson, Board of Governors. IIIT Allahabad to look into the matter against appointment of Registrar IIIT Allahabad received through Ministry against the Professor-in-Charge. Registrar IIIT Allahabad.

1) Prof Vinod K Singh (Chairman)

Professor of Chemistry. IIT Kanpur

Former Director, IISER Bhopal

2) Prof Manindra Agrawal (Member)

Professor of Computer Science & Engineering

Former Dy Director, IIT Kanpur

Dr P.K. Saini, Joint Registrar. Estt, IIIT Allahabad was asked to provide the relevant documents held by the Institute related to the recruitment process.

The Committee had a meeting at the campus of MNNIT on 21 September 2022 to examine the papers given by the institute and meet the concerned people as part of the enquiry.

The committee was also asked to conduct separate fact-finding enquiries related to the administrative complaints received against the acting Registrar of the Institute This report shall be submitted independently.

Documents examined

- The relevant extract of the provisions of Statutes for appointment of Registrar is enclosed (Annexure-1)
- The minutes of the IIIT Council. F. No. 77-3/2019-TS I dated 30 October 2019 specify that the Professors may not be appointed as Registrars (Annexure-II).
- The advertisement dated 27 July 2021 (Annexure-III)
- The constitution of the selection committee by the Director (Annexure-IV)
- Call letter sent to candidates (one model letter enclosed as Annexure-V)
- The selection committee report dated 12th November 2021 (Annexure-VI)
- The minutes of the BoG meeting held on 11 January 2022 (Annexure-VII)
- MoE Letters: dated 16.03.2022 (Annexure-VIII): 22.09.2022 (Annexure-IX)
- Application for the post of registrar (Annexure-X)
- Other Miscellaneous complaints sent by MoE and provided by the Institute

Findings of the enquiry

1) The post of a registrar is a statutory position for a period of five years to be filled in accordance with the provisions of the Statutes of the Institute. Therefore, the Statutory provisions laid down for this purpose are very sacrosanct and cannot be tweaked by individual officials or Board unless amended by the approved process.

2) As per the Statute No: 5. (ii) and (iv), the selection committee for the Registrar should consist of the Director (chairperson), two experts nominated by the Board, one expert nominated by the senate, one administrative expert nominated by the Board and one SC/ST member nominated by the Board if none of the other members belongs in this category.

A perusal of documents revealed that there were six members on the selection committee of which two members. Prof DVLN Somayajulu and Shri S. Goverdhan Rao were without any approval of the Board. This deviation was made by the then Director in constituting a committee suo moto without obtaining the approval of two expert nominees from the Board of Governors in derogation of the Statutes rendering the entire selection process null and void which is done without powers and usurping the powers of the Board.

3) The Council of IITs categorically resolved that the candidates for Registrar with experience as Professor shall not be preferred. However the advertisement did not carry any condition to that extent totally ignoring the guidelines of the Council of IITs. which is the competent Authority.

4) Out of 68 received applications, 52 were found to be eligible These eligible candidates were called for presentation before the selection committee on 10 and 11 November 2021 A total of 24 candidates appeared for the presentation.

It was noticed that a written test in the form of a case study was done just before the interview although there was no mention of this in the call letter dated 25 October 2021 sent to the candidates. The inclusion of the additional process without making explicit provisions for the written test in the call letter re-creates a premeditated unfair practice. Further there are hardly any instances of conducting a written test for the selection of candidates at level 14 which would cast doubts in the minds of the candidates and could result in seeking judicial interventions, by the unsuccessful aspirants once the results are announced.

5) Based on the marks in the written test and presentation, 7 candidates were interviewed on 12 November 2021 Prof Vijaishri Tewari, the Acting Registrar of IIT Allahabad was recommended for the post. The committee also recommended her as an adjunct faculty in her academic department.

6) Prof Vijayshri Tewari was appointed Professor on 23 March 2021 After a year of probation, she was confirmed on 23rd March 2022. She applied for the position of registrar on 29th September 2021 The documents indicated that the application was not made through a proper channel.

It is a violation of the rule for a Government employee not to apply for a post through the proper channel. It is surprising to note that the institute accepted her application The offer letter of Professor does not indicate barring her for applying any position under probation. On that count, we cannot hold her guilty for applying under probation. However she should have provided vigilance certificate it is also the administrative lapse on behalf of the then Director to interview a person and recommend to Board for the appointment without having vigilance clearance.

Summary

The findings of inquiry render the entire Selection process null and void. The committee recommends that the selection committee report should be

quashed and a new advertisement should be released for the selection of the Registrar of IT Allahabad following norms laid down by the Statutes and the Council.”

“Report on the Allegations against the Professor-in-Charge, Registrar, IIT Allahabad

The following fact-finding committee was constituted by the Chairperson, BoG. IIIT Allahabad, to look into various charges against the Professor-in-Charge, Registrar, IIIT Allahabad.

Prof Vinod K Singh (Chairman)

Professor of Chemistry, IIT Kanpur

Former Director, IISER Bhopal

Prof Manindra Agrawal (Member)

Professor of Computer Science & Engineering

Former Dy Director, IIT Kanpur

Dr PK. Saini, Joint Registrar, Estt, IIIT Allahabad, was asked to provide the relevant documents held by the Institute related to the administrative complaint

Terms of the reference of the fact-finding committee

To look into the various charges/complaints received through the Ministry against the Professor-in-Charge. Registrar, IIIT Allahabad (Annexure 1)

Introduction

The Indian Institute of Information Technology Allahabad (IIIT-A) was established in 1999 as a centre of excellence in Information Technology (IT) and allied areas. The institute was conferred the "Deemed University status by the Government of India in the year 2000. It was declared an "Institute of National Importance" by the Act of the Parliament, Govt. of India, in 2014.

The campus (100 acres) is a fully residential one. The institute has four academic departments: Information Technology, Electronics and Communication Engineering, Applied Sciences, and Management Sciences. There are 2036 students (UG & PG), 78 faculty members, and 75 non-teaching staff, including 14 officers.

The committee members received a letter (Annexure 1) from the Director, MNNIT, who is having charge of the Director, IIIT Allahabad, on 14th September to look into the matter regarding allegations against the acting Registrar of the Institute.

The Visit of the Fact-Finding Committee

The Committee met on the campus of MNNIT on 21 September 2022 from 12:30 PM-7 PM. It interacted with some of the institute functionaries, faculty, non-teaching and contractual staff. In addition, the members of the Committee also met PIC, Registrar The modalities of the interactions were:

- The Committee made a conscious effort to restrict itself to get the people's opinion for their respective impression on the professional attributes of the PIC, Registrar People were chosen to interact randomly.
- Committee also decided not to divulge individual names of those who opined on the performance of the PIC, Registrar. This modality was adopted to bring in confidence and trust while the people expressed their opinions freely and openly to the Committee.

Report of the Committee

The committee individually interacted with some of the institute functionaries, a few faculty members and non-teaching & contractual staff. Nearly all of them had some allegations against the PIC. Registrar It appeared to us that most people were unhappy with the functioning of the PIC. Registrar. We summarize here some of the common allegations:

- The PIC. Registrar does not spend enough time on campus. Some mentioned that she spends only 7-8 hours a week in the institute.
- She is not well versed with rules and regulations.
- Due to above reasons, she relies on a small coterie for decision-making.
- There has been corruption in the Institute's security, where money is collected from each of the security guards by the supervisor of the current service provider. Despite written complaints to the Registrar, nothing happened

The Registrar denied most of the allegations. She mentioned that she had to take leave due to her health issue.

Conclusions

While it is difficult to substantiate some allegations against PIC, Registrar, it is clear that she does not spend sufficient time towards discharging her responsibilities. As a result, she is unable to resolve issues proactively, causing resentment and disappointment in many in the institute.

During the course of its investigations, the Committee observed some additional issues that need to be addressed. In the interest of the institute, the Committee wishes to give some suggestions regarding these:

1. The faculty strength in the institute is 78. Out of this, more than 40 faculty are involved in administration. We feel that the top should not be so heavy. There is no need for associate Deans, and there are too many Deans in such a small institute.

2. There is a house marked for the Registrar on the campus, but no one lives there. This is a waste of taxpayers' money. Since it is a residential campus, all the people should live on the campus. This is particularly true for the institute functionaries.”

32. In aforesaid circumstances, petitioner withdrew Writ-A No. 16967 of 2022 and it was dismissed with liberty to challenge impugned resolution dated 09.11.2022 and in pursuance of above liberty petitioner filed Writ-A No. 20794 of 2022 with following prayers:

“i. a writ, order or direction in the nature of certiorari quashing the impugned resolution dated 9.11.2022 (Annexure no.20 to this writ petition) passed by Board of Governors.

ii. a writ, order or direction in the nature of mandamus commanding the respondents to conclude the selection process in terms of the resolution passed by the Board of Governors dated 11.1.2022 and forthwith issue a formal appointment letter in favour of the petitioner for the post of Registrar in the respondent - institute.

iii. any other writ, order or direction as this Hon'ble Court may deem fit and proper in the circumstances of the case to meet the ends of justice.

iv. award cost of the petition to the petitioner.”

33. During pendency of above referred writ petition a fresh advertisement was published by Institute for selection to the post of Registrar on 05.10.2023 which was assailed by petitioner in connected Writ-A No. 17984 of 2023. During argument it was pointed out by learned Senior Advocate appearing for Institute that in pursuance of fresh advertisement Selection Committee has

recommended name for appointment to the post of Registrar, however, due to present Model Code of Conduct, further proceedings for appointment of new Registrar is not concluded. On a specific query of this Court, learned Senior Advocate appearing for petitioner has stated that petitioner has not participated in subsequent process as she was before this Court.

34. Petitioner is represented by Sri G.K. Singh, learned Senior Advocate assisted by Sri Hritudhwaj Pratap Sahi, Advocate and Respondent-Institute is represented by Sri Shailendra, learned Senior Advocate assisted by Sri Rohan Gupta, Advocate.

35. Both learned Senior Advocates have argued vehemently and referred various documents and interpreted the same differently according to their case and have also placed various judgments.

36. In brief, arguments raised by learned Senior Advocate for petitioner and as also referred in written submission, are mentioned hereinafter:

(i) The impugned action on the part of Institute suffers from lack of jurisdiction inasmuch as Institute has reviewed its earlier resolution of 11.01.2022, which was confirmed by way of circulation dated 28/29.01.2022, by impugned resolution which is impermissible in eyes of law as no power of review under any statute or provision of law is vested with Institute. The said proposition of law is supported by paragraph 11 of judgement of Apex Court in Kuntesh Gupta Vs. Management of Hindu Kanya Mahavidyalaya Sitapur and others, AIR 1987 SC 2186.

(ii) Reliance on ex parte reports dated 01.10.2022 and 17.10.2022 by Institute is also impermissible as said action is in violation of principles of natural justice for the reason that petitioner was neither served with reports nor was she was heard by Committee formulating reports. Even otherwise before passing of impugned resolution petitioner was never heard and on contrary stigma was cast upon her without hearing her version.

(iii) In so far as findings in the ex parte reports dated 01.10.2022 and 17.10.2022 are concerned, the same have been categorically rebutted in paragraphs 42 to 56 of Writ-A No. 20794 of 2022. For reference relevant paragraphs No. 42, 43, 45, 46, 48, 49, 50, 51, 53, 54 and 56 are reproduced hereinafter:

“42. That in so far as the first ground is concerned it is submitted that vide order dated 26.10.2021, the then Director constituted the selection committee for the post of Registrar in terms of Statute - 5 of the Statutes of IIIT. Bare

perusal of the constitution of the selection committee annexed as Annexure no.3 to this writ petition would indicate that the persons named at Serial Nos. 3 & 4 of the said selection committee were over and above statutory mandate required under Statute-5, which provides for constitution of a selection committee. Apart from the abovementioned two members, the rest of the members of the selection committee are strictly in accordance with Statute-5 of the 1st Statutes.

43. That inclusion of the abovementioned two persons would have no bearing on the issue at hand in as much as all the 7 members had unanimously decided in favour of the petitioner therefore even if the recommendation of the abovementioned two persons is not taken into consideration then too the petitioner would be selected by the rest of the members of the selection committee, as their decision also were same as the decision of the abovementioned two persons.”

“45. That it is further submitted that Section 44 of the 2014 Act specifically provides that no Act of the Council or any institute, Board or Senate or any other body set up under this Act or the Statutes, shall be invalid merely by reason of any vacancy in or defect in the constitution thereof or any irregularity in its procedure not effecting the merit of the case and any defect in the selection, nomination or appointment of a person acting as a member thereof, meaning thereby that the selection committee constituted on 26.10.2021 would not be put to question since it does not affect the merits of the case as the members who were there in the selection committee as per the Statute had unanimously decided in favour of the petitioner therefore even if the two persons namely Professor DVLN Somayajulu and Sri S. Goverdhan Rao were removed or their recommendations were not considered then too the outcome would have been the same i.e. the petitioner would be selected.

46. That in so far as the second ground is concerned it is submitted that the respondents have wrongly interpreted the resolution of the council of the IIITs in as much as the council had resolved at Item no. 4.14 that normally a Professor may not be appointed as a Registrar, as the same resulted in loss of academics, which clearly goes on to show that the council had nowhere put an embargo or restricted the appointment of Professor as Registrar. The council had merely advised that normally they should not be considered.”

“48. That it is further apposite to mention over here that there is no embargo in the RPN norms which have been annexed along with the advertisement, restricting the appointment of Professors as Registrars, therefore once there

is no such embargo in the RPN norms then in that case the petitioner was very much eligible and qualified to be appointed as a Registrar. Even otherwise no such amendment has been brought about in the 1st Statutes of IIT, Allahabad regarding the restriction of appointment of a Professor as Registrar, therefore in the absence of same the reasoning given by the fact finding committee is totally misplaced.

49. That in so far as third ground is concerned it is submitted that the general instructions which have been issued to the candidates in the advertisement specifically provide in Clause-9 that the selection process for the post of Registrar will consist of presentation / seminar and interview. In view of the above condition the presentation was conducted wherein a case study was given to the candidates to analyze and present the same before the presentation committee, therefore it is amply clear that there was no separate written examination conducted as has been alleged in the exparte reports submitted by the fact finding committee.

50. That it is also apposite to mention over here that the general instructions issued to the candidates in the advertisement specifically provides in Clause 2(a) that the institute reserves its right to place reasonable limits by putting a certain criteria on the total number of candidates to be called for written test / presentation / seminar / interview, meaning thereby that the modalities adopted by the respondent institute for conducting the selection proceedings is just, fair and in accordance with the advertisement.

51. That even otherwise none of the candidates who had applied nor any of the prospective applicants have objected to the fairness of the selection proceedings. It is also apposite to mention over here that nobody has come forward objecting to any of the stages of the selection process therefore in the absence of the same it is amply clear that the selection proceedings had been conducted in a fair manner which did not cause any prejudice to any person concerned. It is further submitted that the minutes of the 20th Board of Governors dated 11.1.2022 have never been put to challenge by any body before any competent court or authority under law, therefore the same has attained finality.”

“53. That in so far as the last ground is concerned it is submitted that a completely vague reasoning has been given that the appointment of the petitioner was not made through a proper channel, in as much as the respondents have failed to indicate as to why the application of the petitioner had not been made through a proper channel. The petitioner had strictly

applied in terms of the advertisement through online mode, therefore it cannot be said that the petitioner had not applied via the appropriate channel.

54. That another surprising fact which demolishes the case of the respondents is that Professor Manindra Agarwal who was a member of the fact finding committee constituted on 1st September, 2022 was also one of the members of Board of Governors which had passed the resolution dated 11.1.2022, approving the selection of the petitioner on the post of Registrar, therefore it is amply clear that Professor Agarwal has conveniently altered his stand. It is also apposite to mention over here that if Professor Agarwal was not in agreement with the selection proceedings, then he ought to have objected to the same when the 20th meeting of the Board of Governors was held.”

“56. That it is the prerogative of the employer to cancel 1 the selection proceedings and a selected candidate does not have any right to question the same, however at the same time it is also well settled that while doing so that employer cannot be allowed to act arbitrarily, which has been done in the facts and circumstances of the present case for the reason that the Board of Governors had passed a resolution, approving the selection of the petitioner in the month of January, 2022 itself and no action was taken by the respondent institute till the time the petitioner had approached this Hon'ble Court by filing Writ-A No. 16967 of 2022, which clearly goes on to show that the impugned actions by the respondents are a malafide exercise of power.”

(iv) Learned Senior Advocate further relied upon judgement of Apex Court in Kerala State Electricity Board Vs. Hindustan Construction Company Limited and others, 2006 (12) SCC 500, wherein it has been specifically held that minutes of a meeting are recorded to safeguard against future dispute as to what had taken place thereat and they are record of the fact that a meeting was held and decision taken therein. It was further held that said minutes as placed before next meeting for what is generally known as 'confirmation' though they are placed for verification and not for confirmation. The reasoning given by Apex Court for above conclusion was that there was no question of any conformation of a decision already taken for once a decision taken does not require any confirmation and it is only placed in the next meeting to see whether the decision taken at earlier meeting was properly recorded or not. The said proposition of law is being relied upon by petitioner as respondents are alleging that resolution passed by Board of Governors on 11.01.2022 was never confirmed in subsequent meetings, therefore it cannot be said that

appointment of petitioner had been conclusively approved by Board of Governors.

(v) In so far as contention of Institute that Selection Committee was irregularly constituted as two extra Members had participated is also liable to be rejected for the reasons that as per Section 44 of The Indian Institutes of Information Technology Act, 2014 no act of Council or any Institute, Board or Senate or any other body set up under the Act or Statutes would be invalid merely due to any vacancy or defect in its constitution, any irregularity in its procedure not affecting the merit of the case or any defect in selection, nomination or appointment of a person acting as a member thereof. The Selection Committee in instant case is a body set up under the Act and Statutes therefore any irregularity in its constitution would be of no consequence that too in the wake of fact that due to such irregularity there is no change in merits of case, as it was unanimous decision of Committee to appoint petitioner. *Pari materia* provision of the State Universities Act was up for consideration in *Dr. Mohd. Suhail Vs. Chancellor, University of Allahabad and others, 1994(2) UPLBEC 787*, wherein Court in paragraph 10 (referred below) has upheld the aforesaid proposition of law:

“10. A perusal of the aforesaid provisions of Section 66 of the Act read with Section 99 & 99-A of the Code would indicate that these provisions have an overriding effect after a selection has been made by the Selection Committee or a decree has been made by the trial court. This Section 66 of the Act is akin to a proviso to the procedure for selection. This Indicates that no proceeding of any Committee of the University including the Selection Committee shall be invalid merely by reason of any Irregularity In the constitution of the Selection Committee or any vacancy and even if there was any irregularity In the constitution of the Selection Committee because some body participated in the selection of the candidates who could not have participated. But this irregularity need not affect the merits of the case. This provision has been engrafted with a view to do complete justice with the result of the Selection Committee.”

(vi) Learned Senior Advocate for petitioner further placed reliance upon judgement of this Court in *Prabhu Narain Singh Vs. Deputy Director of Education, Varanasi, 1977 (3) ALR 391*, wherein Court has held that if a person has been selected by a Selection Committee which has been subsequently approved by appropriate authority then Appointing Authority is bound to appoint said selected candidate and issue a letter of appointment in

his / her favour. In the facts of present case petitioner was selected by Selection Committee and her selection was approved by Board of Governors in its meeting dated 11.01.2022, therefore, Institute was bound to issue an appointment letter in favour of petitioner.

(vii) The Institute has further failed to take into consideration earlier inquiry reports submitted by Institute itself on 01.02.2022, 01.02.2022 and 01.04.2022, approving selection process pursuant to which petitioner has been appointed, therefore impugned resolution as well as advertisement are illegal in the eyes of law.

(viii) None of the candidates nor any prospective candidate has filed any complaint regarding selection process nor have they challenged selection of petitioner, therefore solely on basis of a complaint of a complete rank outsider, respondent - Institute could not have proceeded to pass order impugned and issue consequential advertisement.

(ix) Clause 2(a) of advertisement provides that Institute has right to place reasonable limits by putting a certain criteria on total number of candidates to be called for written test / presentation / seminar / interview.

(x) In so far as contention of Institute that petitioner was present in meeting of Board of Governors in capacity of a Secretary at the time when Board of Governors was considering candidature of petitioner is concerned, it is submitted that petitioner was not present in meeting as she was asked to leave said meeting which is evident from minutes of meeting dated 11.01.2022 itself.

(xi) Even otherwise it is no more res integra that nobody is to be allowed to take advantage of their own wrong inasmuch as it was the respondent - Institute which constituted Selection Committee, therefore, they were estopped from raising objections against its constitution.

37. Per contra, learned Senior Advocate appearing for Institute has vehemently opposed above submissions and arguments raised before this Court as well as in written submission, are mentioned hereinafter:

(i) Present process of selection become void due to illegal constitution of Subcommittee namely 'Presentation Committee' which has also evaluated Case Study (Written Examination) and further due to formation of illegal Selection Committee being contrary to relevant statute.

(ii) In reference to Selection Committee as constituted on 26.10.2021 learned Senior Advocate has submitted that in said Selection Committee out of 07

members 03 members were invalid being not approved by Board of Governors or Senate and so far as experts nominated by Board and list of experts nominated by Senate is concerned that shall be prior approved by Board of Governor and Senate respectively. To that extent Selection Committee itself was illegal. Some of the Members participating in Selection Committee were having no jurisdiction.

(iii) Learned Senior Advocate submitted that petitioner in paragraph no. 17 of rejoinder affidavit has admitted that Prof. Shekhar Verma was not an expert but relied upon principle that since he is Member of Board of Governors being nominated by Senate, therefore his inclusion in Committee is correct, but the fact is that there is a difference between "Member of Board of Governors" and "Experts nominated by Board". It is settled that these persons were neither in list of experts nominated and approved nor in list of experts declared by and approved by Senate and BoG.

(iv) Constitution of Presentation Committee who has evaluated Case Study (written examination) was illegal as there is no provision in Statute and there is no reference in advertisement too, so constitution of said committee was absolutely illegal. Same was the issue in regard to written examination of Case Study, same was also not part of either Statute or advertisement, separate to jurisdiction of Selection Committee.

(v) Learned Senior Advocate also pointed out that Chairman of Selection Committee, i.e., the then Director, Prof P Nagabhusan influenced Selection Committee in favour of petitioner. The fact could be verified from opening remarks of Director, Chairman of Selection Committee in selection itself that he wants a local candidate and also referred that he did not desire candidates who are touching 59 years, however, there is no such instruction/requirement in Statute or in advertisement. It appears that it was just to accommodate petitioner at serial no. 1 and out someone who touching 59 years, may be better candidate and further he desires a local candidate, as a matter of fact which comes in favour of the petitioner because only petitioner was a local candidate, although there is no relevance but definitely requires to be seen that working of petitioner was also apprised by Chairman in Selection Committee for reasons best known to him.

(vi) Learned Senior Advocate referred para 15 of supplementary affidavit. Apart from the fact that there are series of averments and contents where it could be verified that throughout the selection proceeding petitioner was part of selection proceedings during matter is pending before Board of Governors

and she also took decision as to which issue is to be dropped or at which stage proceedings is to be concluded. When she was present in meeting through Video Conferencing, she was asked to mute the video but she continued even after she muted and was in access to decision of Committee as there were two login accesses in her favour, as she was enjoying the meeting by two logins one as Registrar (Acting) and other as Secretary BoG. Further, averments filed in counter affidavit are series of transactions which petitioner was operating till the matter was to be concluded in Board of Governors. Further, when there was specific mention that she could not participate in meeting by Additional Secretary, MoE, Sri Rakesh Ranjan vide letter dated 27.01.2022 even then she continued to handle the matter.

(vii) Learned Senior Advocate seriously objected conduct of petitioner in filing writ petition (earlier one) when she was already working as Registrar (Acting) and custodian of entire records, she filed the documents in earlier writ petition which are not in access of other authorities of IIT, Allahabad. Proceeding of Selection Committee was never to the public, particularly the candidates in Selection Committee. Petitioner filed writ petition with confidence that Selection Committee finalizing the issue which were never published or any notification was made and challenge the same by way of earlier writ petition without disclosing the fact that result was never communicated to any candidate. It is the case of misuse of her position as Registrar (Acting).

(viii) Learned Senior Advocate also referred that the petitioner has claimed herself the BoG finalized the issue on 11.01.2022 but she was also indulge in getting objection, accepting suggestions and then without placing the same before Board of Governors, with amendments, claimed that resolution has already passed on 11.01.2022 although suggestions were from 14.01.2022 onwards. The issue in reference to "amendment suggested" could be approved by circulation, as it was case of fresh consideration on account of amendment suggested. To that extent there is no occasion of claiming approval dated 11.01.2022 that too when petitioner herself was a candidate and was also functioning as Registrar (Acting).

(ix) The Screening Committee screened in 52 candidates out of 66 applications received. Out of which only 24 candidates appeared for presentation and written test (Case Study). There was an apparent illegality that out of 24 candidates only 7 candidates were allowed to appear before Selection Committee for interview that too by a process which was not provided in Statutes. Once it is assumed that if there were no Presentation

Committee then there was a probability that at least 24 candidates would have been present before statutory Selection Committee for presentation and interview.

(x) In all fairness, petitioner was not required to involve in procedure either from outside or inside. Apart from the fact that there was another misrepresentation where Presentation Committee took presentation and evaluated written exam (Case Study) and prepared list of 07 candidates and names were sent before Selection Committee without providing their marks. Although their marks were mentioned in results issued by Presentation Committee, the way list was produced by Selection Committee is apparent from record there was 04 persons having equal marks but petitioner was shown at serial no 1 "mentioning in order of merits". This was clearly misrepresentation showing petitioner the best candidate by way of misrepresentation. There were all possibility that has played in favour of petitioner for given her selection on the post.

(xi) In the present case 02 inquiry committees were constituted. One by Chairman of Board of Governors i.e. two Members Committee consisting of Prof. Manindra Agarwal, IIT, Kanpur (Padamshree) and Prof. Vinod Kumar Singh, IIT. Kanpur (Padamshree) and another Enquiry Committee of Prof. Anil Sahasrabudhe was constituted by Ministry of Education, Govt. of India. In both inquiries persons involved having great reputation and having nothing to do with any particular party, both these committees have found illegality in procedure adopted by Selection Committee.

(xii) Apart from the fact that this fact could be verified that neither report of Committee dated 01.10.2022 nor second report dated 14.01.2023 at any stage challenged by petitioner, therefore, any consequential order passed relying upon same cannot be challenged at this stage.

DISCUSSION

38. The Institute in question was established under the Indian Institutes of Information Technology Act, 2014 (hereinafter referred to as "Act, 2014") [See Schedule of Section 4(1)]. Section 32 of Act, 2014 is for 'Appointments', which is reproduced hereinafter:

"32. All appointments of the staff of every Institute, except that of the Director, shall be made in accordance with the procedure laid down in the Statutes, by—

(a) the Board, if the appointment is made on the academic staff in the post of Assistant Professor or if the appointment is made on the non-academic staff in every cadre the maximum of the pay scale for which exceeds prevalent grade pay scale for Group A Officers;

(b) the Director, in any other case.”

39. It has already referred that a detailed procedure of ‘Appointments’ is provided under Clause 9 of Statutes of Indian Institute of Information Technology. It has also been observed earlier that for appointment of ‘Registrar’ the Selection Committee (See Clause 9(5) of Statutes) should consist of Director (Chairperson) and four Members (two experts nominated by Board, one expert nominated by Senate and one more Member nominated in terms of Clause 9(5)(iv) of Statutes). Therefore, in the case in hand, the Selection Committee constituted of a Chairperson and six Members, as such, two persons were additionally included.

40. Learned Senior Advocate for petitioner has referred Section 44 of Act, 2014 that no act of Board or body set up under the Act and Statutes shall be invalid merely by reason of any vacancy in or defect in constitution thereof or any irregularity in its procedure not affecting the merits of the case, whereas per contra, learned Senior Advocate appearing for Institute submitted that it was not mere irregularity but illegality which goes to the root of procedure and vitiates entire procedure for appointment of Registrar and he referred Section 32 of Act, 2014 that all appointments shall be made in accordance with procedure laid down in the Statutes. There is not much argument that there was mala fide behind extension of number of Members of Selection Committee but there is no reason why deviation was made.

41. Learned Senior Advocate for Institute has submitted that petitioner despite a candidate for Registrar has not only tried to make influence but also tried to expedite process of approval of resolution of BoG in issuance of appointment letter. Learned Senior Advocate has referred an e-mail dated 14.01.2022 sent by petitioner under capacity of Secretary, BoG, IIIT-A, whereby minutes of 20th Meeting of Board of Governors be confirmed through circulation as well as she was in possession of documents, which were not available in public domain, but she brought them in public domain.

42. As referred earlier, the advertisement does not provide any process of written test but Screening / Presentation Committee has adopted a different procedure of written test without any prior or post approval. According to learned Senior Advocate for petitioner General Instructions were provided in

advertisement which includes written test also, however, said argument is contrary to Item No. 9 of advertisement where it is provided in specific term that for Registrar (Sl. No. 1) process will consist of Presentation/ Seminar and Interview and for Deputy Registrar, selection process will consist of Written Test/ Presentation / Seminar and Interview, therefore, there was clear distinction. No substantial argument was raised on behalf of petitioner to support the process so far as inclusion of written examination is concerned.

43. The argument that report on appointment of Registrar, IIT Allahabad dated 01.10.2022 does not take note of earlier report, has no legal basis since the Inquiry Committee has specifically considered specific query raised by Ministry of Education (Department of Higher Education) dated 07.04.2022. Section 46 of Act, 2014 further provides that “the Institute shall carry out such directions as may be issued to it from time to time by the Central Government for efficient administration of this Act”, therefore, there is no illegality in conducting fresh inquiry on basis of communication and direction or query raised by Ministry of Education.

44. The findings of inquiry report of two Members Committee dated 01.10.2022 would be summarized in following manner:-

(a) Deviation made by the then Director consisting six Members in Selection Committee i.e. 2 members were additionally included suo moto, without any approval from BoG, being contrary to statute, rendered entire selection process null and void.

(b) A written test in the form of a Case Study was done just before the interview though it was not part of call letter. Inclusion of additional process resulted in a premeditated unfair practice.

(c) Application of petitioner was not made through a proper channel. Committee has also wrongly recommended her as an adjunct faculty in her academic department.

45. So far as above referred clause (c) is concerned, Court is of view that it does not have legal basis since recommendation of adjunct faculty was dropped by BoG as well as after process is concluded appointment of petitioner could not be found fit irregular only on ground that it was not through proper channel.

46. The Court finds that Clauses (a) and (b) are violation of due process of selection and as discussed above, learned Senior Advocate for petitioner has failed to satisfy the Court on basis of any material that process prescribed in

selection was not violated. No justification was brought on record to satisfy any reason for such deviation.

47. The Court does not find much substance that petitioner has tried to influence the process, though she may be more zealous to complete the process expeditiously and a reason for that may be that her name was approved for appointment, which ought to have been avoided. A selection process not only should remain fair but a single instance of influence should be avoided. There is substance in the argument of learned Senior Advocate for Institute that many documents which were not in public domain but they were brought in public domain by petitioner.

48. The Court is of the considered opinion that though petitioner's name was approved by BoG for appointment on post of Registrar but it would complete only when appointment letter was issued and in present case admittedly no appointment letter was issued, therefore, she was not required to be heard.

49. The Court has also taken note that during pendency of this writ petition, fresh recruitment process has substantially progressed and petitioner on her own will has opted not to participate in the fresh recruitment though there was no interim order in present case as well as in other writ where fresh process was challenged.

CONCLUSION

50. Fairness in any selection process is an utmost necessity and when it is of a single post of Registrar of a prestigious Institute, it became more imperative to keep entire process unblamable, unbiased, unblemished and strictly in accordance with prescribed procedure and on scrutiny if it was found that contrary to above the process became blameable or biased or blemished or prescribed process was not strictly followed, the entire process could be declared void, irrespective of its stage.

51. In present case as referred above, a two Members Committee reviewed entire process and found that not only there was deviation in constitution of Selection Committee by including two extra Members without any prior permission or any express reason but written examination was also introduced though it was neither provided in advertisement nor in the call letter rather it was only provided for selection of Deputy Registrar. Such deviation from process also remained without prior permission or any express reason. Details of interview being deciding factor as four candidate including petitioner got equal marks in written test and presentation, was not on record

which shows that process was opaque and not transparent. There is no challenge to findings of Committees.

52. Above all, the Petitioner a candidate for post of Registrar was running the show being Acting Registrar and being aware of all internal process, she remained in a position to influence the process directly or indirectly. At least in final stage she definitely tried to expedite the process when she became aware that her name was approved in the meeting of Board of Governors. She ought to have remained disassociated with the process to keep it pure but her acts are also a reason that entire process of selection became unfair and it was rightly declared void by Board of Governors and their decision as discussed above being based on legally sustainable reasons does not warrant any interference.

53. The challenge to it at behest of the petitioner thus failed on various ground. Firstly, being a candidate she has no indefeasible right of appointment; secondly on a direction of Central Government, the Institute was under a legal obligation to scrutinise the process and reply to queries raised; thirdly a two Members Committee on a detailed inquiry found above referred deviations which could not be cured as they goes to the root of process being contrary to procedure prescribed under statute and thus entire process became illegal as well as earlier inquiries were only an eye wash; fourthly earlier process was not concluded as no appointment letter was issued thus the petitioner was not required to be heard; and, fifthly the petitioner being a candidate for the post of Registrar failed to keep her away (directly or indirectly) from selection process, no matter that she was an Acting Registrar.

54. During pendency of present writ petitions a fresh process (under challenge also) of appointment of Registrar is reached to its near conclusion and petitioner on her own will has not participated in it, therefore at this belated stage Court cannot pass an order to allow her to participate in present process, however the Institute will have liberty to allow petitioner.

55. The challenge to fresh recruitment process has no basis since this Court is of considered opinion that there is no ground to interfere with a decision to declare earlier process being void.

56. The outcome of above discussion is that both writ petitions fail and are accordingly dismissed.

*Disclaimer: Always compare with the original copy of judgment from the official website.