

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D. B. Civil Special Appeal (Writ) No. 79/2025

The State of Rajasthan.
-----Appellant

Versus

Dr. Rachita Mathur & Another.
-----Respondents

Connected With

D. B. Special Appeal (Writ) No. 93/2025

Rajasthan Public Service Commission.
-----Appellant

Versus

Dr. Rachita Mathur & Another.
-----Respondents

For Appellants	:	Mr. Vigyan Shah Additional Advocate General with Mr. Yash Joshi Advocate. Mr. Yuvraj Samant Advocate with Ms. Neha Amola Advocate.
For Respondents	:	Mr. R.K. Mathur, Senior Advocate assisted by Mr. Aditya Kiran Mathur Advocate.

HON'BLE THE CHIEF JUSTICE MR. MANINDRA MOHAN SHRIVASTAVA
HON'BLE MR. JUSTICE UMA SHANKER VYAS

Order

10/02/2025

1. Heard on prayer for stay.
2. Learned Additional Advocate General appearing on behalf of the appellant-State as also learned counsel appearing on behalf of the appellant-Rajasthan Public Service Commission would submit that learned Single Judge erred in law in declaring 40% marks allocated for interview as arbitrary and unconstitutional whereas the break up of marks allows 40% weightage for the screening test, 20% weightage for academic and only 40% weightage for

interview. The other submission advanced by learned counsels for the appellants is that the decision taken by Rajasthan Public Service Commission in its meeting dated 24.04.2019 was known to all the candidates, yet the writ-petitioner chose not to challenge the same, but participated in the process of selection. Writ petitioner filed the petition in exercise of liberty granted to her in another writ petition. Alternative submission of learned counsels for the appellants is that even if the finding of the learned Single Judge that prescription of 40% marks for interview was excessively high and against the principles laid down by the Hon'ble Supreme Court in the cases of **Ajay Hasia & Others Vs. Khalid Mujib Sehravardi & Others (1981) 1 SCC 722, Ashok Kumar Yadav & Others Vs. State of Haryana & Another, AIR 1987 SC 454** and **Praveen Singh Vs. State of Punjab & Others (2000) 8 SCC 633**, learned Single Judge could not have issued a mandate for fixing interview marks not more than 10% by applying the provisions contained in the rule which was amended after issuance of advertisement and during the currency of the process of selection. In support of his submissions, learned State Counsel has placed reliance upon the decision of the Hon'ble Supreme Court in the case of **Anzar Ahmad Vs. State of Bihar & Others (1994) 1 SCC 150**.

3. On the other hand, Mr. R.K. Mathur, learned Senior Advocate appearing on behalf of the respondent-writ petitioner would submit that the finding of the learned Single Judge that allocation of 40% marks for interview being excessive is based on well considered and settled legal position as laid down in the various

decisions which have been referred in the order impugned. Learned Senior Advocate would further submit that the break up of marks was never disclosed in the advertisement, nor by any separate notification published and when the writ petitioner, during the process of selection, came to know that a very high percentage for interview marks has been fixed, she filed writ petition. Learned Senior Advocate would further submit that the learned Single Judge mandated interview marks as 10% taking into consideration the subsequent policy under the rule, though brought into force during the process of selection.

4. On prima facie consideration, we find that insofar as finding of the learned Single Judge that prescription of 40% marks for interview may be on a higher side, at the same time, the mandate of applying 10% for interview marks is based on amended rule which was not in force on the date of issuance of advertisement, but was brought into force during the currency of process of selection, requires consideration.

5. Therefore, we direct that Rajasthan Public Service Commission shall not proceed to finalise the process of selection for the post of Assistant Professor (Skin & VD) until further orders. However, we make it clear that present case is confined only insofar as recruitment to the post of Assistant Professor (Skin & VD) is concerned.

6. Considering the prayer of learned Additional Advocate General as also learned counsel for Rajasthan Public Service Commission that the interim order relates to recruitment to the post of Assistant Professor (Skin & VD) in medical colleges, we are

inclined to hear these appeals out of turn and direct that these appeals be listed for final disposal at motion stage on 03.03.2025 at 2.00 P.M.

7. Office is directed to place a copy of this order on record of connected appeal.

(UMA SHANKER VYAS),J

(MANINDRA MOHAN SHRIVASTAVA),CJ

MANOJ NARWANI-YOGESH/179-180