

**(1993) 04 AHC CK 0026**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 40177 of 1992

Dr. Ehsan Ahmad and Others

APPELLANT

Vs

Aligarh Muslim University and Others

RESPONDENT

**Date of Decision :** 12-04-1993

**Acts Referred:**

**Citation :** (1993) 3 AWC 1489 : (1993) 2 UPLBEC 1046

**Hon'ble Judges :** Vijay Bahuguna, J

**Bench :** Single Bench

**Advocate :** Chandra Shekhar, for the Appellant; Dinesh Goswami and Dilip Gupta, for the Respondent

## Judgement

Vijay Bahuguna, J.—The instant petition relates to the admissions to the three year M.D./M.S./Post-Graduate Diploma courses for the academic year 1992-93 conducted by the Aligarh Muslim University. The Petitioners appeared at the Entrance Examination as also in the interview.

2. The Petitioners pray for the issuance of a writ of certiorari for quashing the entire admission test which was held on 28th July, 1992 and to re-issue the merit list without taking into consideration the marks obtained in the interview.

3. In the counter affidavit filed on behalf of the University it is stated that the list dated 18th September, 1992, the Petitioners were provisionally selected for admission. The Petitioner No. 1 has got admission in M.D. (Physiology), Petitioner No. 2 in Diploma (Orth. Surgery), Petitioner No. 3 in Diploma (Anesthesiology), and Petitioner No. 4 in M.D. (Bio-chemistry). It is further stated that Petitioners No. 1 to 3 were admitted in the September 1992 batch and classes have started from 30th September, 1992. In so far as the Petitioner No. 4 is concerned, his name appears in the list which has been notified on 23rd February, 1993. He has been transferred to the Department of Orth Surgery. This was done at his request as he wanted a transfer from M.D. Bio-Chemistry to the Department of Orth Surgery. It is stated that the criterion for selection of candidates is "evaluation

of merit". The criterion is thus:

Evaluation of merit.

The Post-Graduate Committee was of the opinion that in order to determine the merit of a candidate for admission to post-graduate medical courses, (i) his performance at the M.B.B.S. examination, (ii) his performance during the course of internship and housemanship for which a daily assessment chart be maintained and (iii) the report of the teachers which is to be submitted periodically may be considered.

Alternatively the authorities concerned may conduct competitive entrance examination to determine the merit of a candidate for admission to post graduate medical courses.

4. It is contended that whereas the performance at the .M.B.B.S. Examination can be judged by the performance at the written competitive Examination, the performance during the course of Internship and the Housemanship and the report of the teachers is taken into account by the high powered interview Committee constituted by the University and it is for this reason that 30 percent marks have been allotted for the interview as out of the 3 conditions 2 conditions have to be adjudged by the Interview Board. For admission in the Post-Graduate Diploma courses the students who have already passed M.B.B.S. examination and have completed the Rotatetry Internship are considered and it is for this reason that the interview is necessary to determine the merit of the students. The Interview Board consists of the Dean, Faculty of Medicines and the other Board is headed by the Principal of Medical College. Four eminent Professors, who are men of repute in their own field, are members of the Board. It is stated that the Petitioners did not raise any objection before they appeared in the interview and moreover they have already got admission and as such it is not open to them to challenge the admission policy of the University.

5 The principal argument of the counsel for the Petitioners is that the allocation of 30 per cent marks for interview was arbitrary and in the teeth of the decision of the Supreme Court reported in Ashok alias Somanna Gowda and Another Vs. State of Karnataka by its Chief Secretary and Others, . The question which arises for consideration before this Court is as to whether in admission to post-graduate courses the allocation of the interview marks can be said to be fair and vaild. In this context the counsel for the University placed reliance on a decision of the Supreme Court in Javid Rasool Bhat and Others Vs. State of Jammu and Kashmir and Others, . In paragraph 8 of the judgment the Supreme Court observed:

The court's duty lies in preventing arbitrariness and denial of equal opportunity. The question as to the subjects in which an entrance test may be held is hardly a matter for the Court, unless, of couse, the subjects are so arbitrary chosen as to have not the slighost connection with the object of the examination. Such a situation is not likely to arise as the authorities may be expected to act reasonably. Again it is not for the Court to lay down whether an interview test

should be held at all or how many marks should be allotted for the interview test. Of course, the marks must be minimal so as to avoid charges of arbitrariness but not necessarily always. There may be posts and appointments where the only proper method of selection may be by an interview test. Even in the case of admission to higher degree courses, it may sometimes be necessary to allot a fairly high percentage of marks for the interview test. For admission to a Ph.D. course, for example, candidates may have to be personally interviewed, each of them for a few hours, perhaps, before any decision can be taken as to who may be admitted. That is why we say rigid rules cannot be laid in these matters, and not by courts. The expert bodies are generally the best judges

6. The session has already started in September, 1992, and Petitioners 1 to 3 have been granted admission and the Petitioner No. 4 will be admitted in April, 1993 batch and as such at this late stage to upset the entire selection would not be in the interest of the students as also the University. However, for the future admissions to be made by the University it is directed that the interview marks should not be more than 15% so that best talent is selected and there is no room for any grievance to the candidates appearing in the examination.

7. With the above observations, the writ petition is finally disposed off.