
(2009) 12 AP CK 0003

In the Andhra Pradesh High Court

Case No : Writ Petition No. 15146 of 2000

A. Gopal Menon (Dr.)

APPELLANT

Vs

University of Hyderabad and Others

RESPONDENT

Date of Decision : 30-12-2009

Acts Referred:

Citation : (2010) 2 ALT 43

Hon'ble Judges : R. Subhash Reddy, J

Bench : Single Bench

Advocate : J. Sudheer, for the Appellant; N.V. Sumanth for Respondents 1 and 2 and K.V.N. Bhupal, for Respondents 3 to 5, for the Respondent

Final Decision : Dismissed

Judgement

R. Subhash Reddy, J.—This writ petition was filed on 20th November 2002, initially, by seeking directions by way of Mandamus, directing respondents 1 and 2 to treat the candidature of the petitioner equally on par with the candidates, by allowing him to face the Selection Committee for the purpose of selections to the posts of Reader and Lecturer in the University of Hyderabad.

2. During the pendency of the writ petition, in view of the selections and appointment orders issued in favour of respondents 3 to 5, the petitioner sought permission for amendment of the prayer by filing WPMP. No. 3673 of 2003, which is allowed on 27th of August 2003. In terms of the amended prayer, the petitioner seeks a declaration by way of Mandamus, declaring the selection of respondents 3,4 and 5 to the posts of Reader and Lecturers pursuant to the Notification No. RECTT/P-I/2/99, dated 08.11.1999 in the 1st respondent University, as illegal and arbitrary.

3. The University of Hyderabad is a Central University, established in 1974, by an Act of Parliament. It has issued Notification No. RECTT/P-I/2/99, dated 08.11.1999, inviting applications in prescribed format, to fill up various faculty posts. In the said notification, respondents have notified the vacancies of 11

posts of Professors, 26 posts of Readers and 56 posts of Lecturers. In this petition, the dispute relates to the appointments made to the posts of Reader and Lecturer in the department of History. In the aforesaid notification, at Serial No. 39, respondents have notified two posts of Readers i.e. one post in Ancient Indian History and the 2nd post in any area of historical research, and two posts of Lecturers i.e. first post in Medieval Indian History (Desirable with research interest in Medieval Deccan) and the 2nd post in any area of Historical Research. The 1st respondent-University also issued written instructions to candidates and instruction No. 12 reads as follows:

University will make a preliminary selection of candidates on the basis of information furnished by the candidates in their applications. Possession of minimum qualifications prescribed will not automatically entitle a candidate to be called for the test or interview, if better qualified candidates are available. Summoning of a candidate to a test or interview merely indicates that the University thinks it possible that he will be selected or recommended along with other candidates.

4. In response to the notification, number of candidates have applied for various posts in the faculty positions. All the applications were placed before the Screening Committee to restrict the candidates to be called for interview on the basis of qualification, experience in accordance with the norms laid down by the University. Among the applicants, keeping in view the ratio of 1:5, the Screening Committee shortlisted the candidates. The petitioner herein, claiming specialization in modern history, has applied to the post of Reader and also to the 2nd post of Lecturer in History, but he was not called for interview on the ground that he was not fulfilling the criteria adopted by the Screening Committee to be called for interview. At that stage, he filed the writ petition, seeking directions to the respondents 1 and 2, to interview him and to consider his candidature along with the other candidates, and this Court, by an order dated 17th of August 2000, passed in WPMP. No. 19211 of 2000, issued directions to the 1st respondent-University to permit the petitioner to appear before the Selection Committee for interview to the post of Lecturer. Pursuant to such directions, the petitioner was interviewed and his candidature was considered to the vacancy of Lecturer, but he did not come up for selection. The Selection Committee, after interviewing the candidates, who fulfilled the eligibility criteria in the screening test, recommended respondent No. 3 herein to the post of Reader and respondents 4 and 5 to the post of Lecturer. Based on the recommendations made by the Selection Committee, the Executive Council of the University has appointed respondent No. 3 as a Reader and respondents 4 and 5 as Lecturers, and issued appointment orders, and consequently, they joined the service of the University.

5. In the affidavit filed in support of the writ petition, initially, it is the case of the petitioner that no reasons were assigned by the Registrar of the University for not issuing call letter to him by the Selection Committee to interview him to

consider his candidature for selection. General allegations are made stating that he was being discriminated only on the ground that he is a Kerlita, and further alleging that some vested interests in the University are trying to prevent him from appearing before the Selection Committee by not issuing the call letter. After respondents 3 to 5 were appointed, though an implead petition was filed to implead them, but no additional grounds are raised in the writ petition, challenging their appointment. Merely in the affidavit filed in support of the interlocutory application in WPMP. No. 22623 of 2001 for impleadment of respondents 3 to 5, it is alleged by the petitioner that the procedure adopted by the Selection Committee is illegal. It is the case of the petitioner that the seven point grading system adopted in selection proceedings was not notified to the candidates at any point of time, and keeping in dark the candidates who have applied for the posts, assessment of merit was made. It is the case of the petitioner that grading the candidates as "outstanding", "very good", "good" etc., is not the correct method of evaluation, because the members of the Selection Committee may construe two different things by the said expressions. With regard to the appointment of respondent No. 3 as a Reader, it is alleged that one Professor by name Ajay Mitra Sastry, is a Research Supervisor of the 3rd respondent, as such, he should not have been the member of Selection Committee for selecting the 3rd respondent. By giving the particulars of various qualifications and experience possessed by the petitioner, he claims that he is more meritorious than respondent No. 3. So far as respondent No. 4 is concerned, it is alleged that he has been selected and Appointed as Lecturer against the post notified for Medieval Indian History by submitting his Doctoral theses on the Buddhist Studies. It is alleged that the topic of Doctoral theses has no connection with the Medieval Indian History, much less Deccan history. So far as the 5th respondent is concerned, it is alleged that she is a fresh Ph.D from London, as such, she is not having necessary experience, but inspite of the same, she was selected, ignoring the case of the petitioner. By stating the aforesaid grounds, he sought impleadment of respondents 3 to 5, but at no point of time, he has filed any petition to raise additional grounds in the writ petition.

6. The University of Hyderabad has filed counter affidavit on behalf of respondents 1 and 2, through its Registrar. In the counter affidavit, it is stated that pursuant to the notification issued by the 1st respondent vide Notification No. RECTT/P-I/2/99, dated 08.11.1999, it has called for applications to the posts of Professors, Readers and Lecturers in various disciplines and for the post of Lecturer in History, it is stated that two vacancies each were advertised in the category of Reader and Lecturer. It is stated that respondent No. 1 has received 145 applications to the post of Lecturer, and all the applications were placed before the Screening Committee, so as to call the candidates for interview in the ratio of 1:5. As such, the Screening Committee has shortlisted the candidates to 34 for two posts of Lecturer. The petitioner, whose specialization is Modern History, has applied for the 2nd post of History, but not satisfied the criteria adopted by the Screening Committee with regard to age, as the petitioner was

above 50 years according to his application, though in the affidavit mentioned it as 46 years. It is stated that apart from the petitioner, 27 others were called for interview to the 2nd post of History in any area of historical research, and out of 27, petitioner and 15 others attended the interview. While denying the various allegations made by the petitioner, it is stated that the Screening Committee, after assessing the performance and basing on the information furnished to them through the applications and other material, made assessment of the relative merit of each candidate. The respondents have denied the allegation of the petitioner that he has got superior merit and his non-selection is illegal. It is stated that in the absence of any illegality committed by the members of the Selection Committee, the petitioner cannot make any request to this Court to examine the selection as appellate authority with regard to comparative merit. It is stated that the Selection Committee made the objective assessment and evaluation of the merits and performance of each candidate by interviewing them and has graded the performance of each candidate by following the scale of assessment as "outstanding", "very good", "good", "average", "below average", "poor" and "unsatisfactory". Counter further states that as per Condition No. 10 of the employment notification, it is specifically notified to the candidates that the selections will be made based on the candidates' previous record and their performance in the interview. It is further stated that though the petitioner claims to be a pool officer of CSIR, he did not get his application endorsed as contemplated in Rule 11 of the employment notification, and by keeping blanks of such column, submitted his application. Further, on the allegation of the petitioner that the Head of the Department of History i.e. Professor Mrs. Aloka Parasar Sen has obstructed his induction into the 1st respondent-University, it is stated that the apprehension of the petitioner is only a figment of petitioner's imagination, as much as the Selection Committee comprises of eminent academicians drawn by the panel of experts prepared by the academic council, experts nominated by the President of India, apart from the Vice-Chancellor, Head of the Department and Dean. While pleading that the University has followed the procedure scrupulously, it is stated that the writ petition is devoid of merit, and therefore, prayed for its dismissal.

7. A separate counter affidavit is filed on behalf of respondents 3, 4 and 5. In the detailed affidavit filed by the 3rd respondent, while denying the various adverse allegations made by the petitioner, it is stated that by the time he submitted his application, he was Post Graduate in Ancient Indian History, Culture and Archaeology and Ph.D. in the said subject from Nagpur University and also was having 11 years of Post Graduate teaching experience. Further, it is stated that he has published one book and 15 research papers and journals and books, including some in international journals. It is stated that he has also presented research papers in the conferences held in France, Netherlands and Malaysia. It is stated that in view of the qualifications possessed by him, the duly constituted Selection Committee has selected him and appointed him as a Reader and he joined in duty on 11.10.2000, pursuant to his appointment order, dated 8th

September 2000. In the counter, it is stated that the petitioner was permitted to appear for interview only pursuant to the interim directions issued by this Court.

8. So far as respondent No. 4 is concerned, it is stated that he is having M.A., M. Phil and Ph.D. in History from Jawaharlal Nehru University, New Delhi. He has also cleared National Eligibility Test for Lecturers and also Junior Research Fellowship conducted by the University Grants Commission and he was also awarded the above Fellowship for pursuing M. Phil and Ph.D. programmes. He has published a book titled "The Buddhist Monastery" and also two articles, namely, "Life of the Buddha" and "Spread of Dharma" in the book "Walking With The Buddha", and that he was also Research Associate for preparation of the above book. It is further stated that respondent No. 4 has done his Post Doctoral Research during 1999-2000, for which, he was awarded prestigious Junior Fellowship in Indology by the Department of Culture, Ministry of Human Resource Development, Government of India. It is stated that in view of the qualifications possessed by him, the duly constituted Selection Committee has recommended for his selection, basing upon which, he was appointed by issuing the appointing order, dated 31st of March 2001, issued by the 1st respondent, and joined in service on 04.04.2001. It is stated that after completion of probation, his services were regularized. It is further stated that the 1st post of Lecturer as notified by the 1st respondent-University is meant only for Medieval Indian History and that he was possessing the requisite qualification of Medieval Indian History, whereas the petitioner was not having any qualification in Medieval Indian History. In the counter, he has specifically denied the contention of the petitioner that respondent No. 4 has no connection with the Medieval Indian History and it is stated that the traditional Tibetan culture area includes vast areas of India like Ladakh, large parts of Himachal Pradesh, Sikkim, Darjeeling and Tawang in Arunachal Pradesh, all of which, are integral parts of the Indian Union. It is stated that the focus of the Ph.D. theses of respondent No. 4 is on the Spread of Buddhism in the above mentioned regions in the Medieval period. Hence, the above study pertains to Buddhist history of Medieval India.

9. So far as respondent No. 5 is concerned, in the counter, it is stated that she is having M.A. and M. Phil in History from Jawaharlal Nehru University, New Delhi and Ph.D. from the University of London. During her M. Phil study, she was awarded the Junior Research Fellowship by the Indian Council of Historical Research. For the Ph.D. programme, she was awarded the prestigious Commonwealth Fellowship. With regard to experience, it is stated that respondent No. 5 has Post-Doctoral Research experience as a Visiting Junior Associate Fellow at the Centre for the Study of Developing Societies (CSDS), New Delhi, from December 1996 to February 1998. Further, she was Research Co-ordinator at the CSDS from February 1998 to June 1999. It is stated that in addition to the above said qualifications, she has undertaken three research papers; one on "Studies on Violence and Partition Violence", funded by the Committee for the Cultural Choices, CSDS, the 2nd project is on "Corruption", CSDS, and the 3rd project is titled "Towards a More People Friendly and

Economic Court Procedure", CSDS. It is also stated that she has published 8 research articles and presented 4 papers in conferences, which were in press at the time of application, in addition to a book, which was also in the press at the time of application. It is stated that the Selection Committee, having regard to her performance in the interview and the qualifications possessed by her, selected her and recommended for appointment, and accordingly, the 1st respondent-University has issued appointment order, dated 23rd April 2001, and she joined in service on 30th of April 2001, and her services were also regularized subsequently. Referring to the allegation of the petitioner that she is a fresh Ph.D. Doctorate, it is stated that she has 3 years 4 months Post-Doctoral research experience by the time she applied. Further, she has also got experience as a Course Coordinator for the Under-graduate studies in the Centre for Historical Studies, Jawaharlal Nehru University, for six months from April 1992 to September 1992. Pleading that there are absolutely no merits in the writ petition, the 5th respondent has prayed for its dismissal.

10. Heard Sri J. Sudheer, learned Counsel appearing for the petitioner and Sri Sumanth, learned Standing Counsel appearing for respondents 1 and 2-Universities, and Sri K.V.N. Bhupal, learned Counsel appearing for respondents 3 to 5.

11. With reference to the allegations made by the petitioner, it has been submitted by Sri J. Sudheer, learned Counsel for petitioner that in this case, selections are made arbitrarily and illegally and in a biased manner. It is submitted that though the petitioner has applied for the posts of Reader and Lecturer, he was not even called for interview for any one of the said posts, though he is having better qualifications than the selected candidates. It is submitted that one of the members of the Selection Committee, by name, Professor Ajay Mitra Sastry of Nagpur, was a Research Supervisor of the 3rd respondent herein, and inspite of the same, he has participated in the selection process, in which, respondent No. 3 was selected for the post of Reader. Further, it is submitted that there are no guidelines for the selection process, and also no set procedure to be adopted by the members of the Selection Committee. It is submitted that though all the unofficial respondents 3, 4 and 5 are not qualified to hold the post, they were selected and appointed, and therefore, such appointments are fit to be set aside in view of the arbitrary action on the part of respondents 1 and 2.

12. In support of his arguments, the learned Counsel for petitioner has relied on the following judgments:

1. Ranjit Thakur Vs. Union of India (UOI) and Others,
2. Baidyanath Mahapatra Vs. State of Orissa and Another,
3. C. Muralikrishna and Others Vs. Telugu University, Hyderabad and Others,
4. Gullapalli Nageswara Rao etc. Vs. The State of Andhra Pradesh and Others,

5. The Andhra Pradesh State Road Transport Corporation, Hyderabad and Another Vs. Sri Satyanarayana Transports (Private) Ltd., Guntur and Others,
6. A.K. Kraipak and Others Vs. Union of India (UOI) and Others,
7. S. Parthasarathi Vs. State of Andhra Pradesh,
8. G. Sarana Vs. University of Lucknow and Others,
9. Ashok Kumar Yadav and Others Vs. State of Haryana and Others,
10. G.N. Nayak Vs. Goa University and Others,
11. Dr. Triloki Nath Singh Vs. Dr. Bhagwan Din Misra and others,
12. K.V.L. Kameswari Vs. Andhra University and Others,
13. Minor A. Peeriakaruppan and Sobha Joseph Vs. State of Tamil Nadu and Others,
14. Lila Dhar Vs. State of Rajasthan and Others,

13. In the case of Ranjit Thakur (1 supra), the Hon''ble Supreme Court has held;

The second limb of the contention is as to the effect of the alleged bias on the part of respondent 4. The test of real likelihood of bias is whether a reasonable person, in possession of relevant information, would have thought that bias was likely and is whether respondent 4 was likely to be disposed to decide the matter only in a particular way. It is the essence of a judgment that it is made after due observance of the judicial process; that the Court or Tribunal passing it observes, at least the minimal requirements of natural justice is composed of impartial persons acting fairly and without bias and in good faith. A judgment which is the result of bias or want of impartiality is a nullity and the trial "coram non iudice".

14. In the case of Baidyanath Mahapatra (2 supra), when an issue was taken up on administrative side and same issue is dealt by a member of Administrative Committee on judicial side, the Hon''ble Supreme Court has held:

There is a disturbing feature of this case which vitiates Tribunal's order. Shri Gian Chand, Chairman of the Tribunal, ex-Chief Secretary of the State of Orissa, was member of the Review Committee which made recommendation against the appellant for his premature retirement, and in pursuance thereof the State Government had issued the impugned order. It appears that Shri Gian Chand had latter been appointed as Chairman of the Administrative Tribunal. Shri Gian Chand participated in the proceedings of the Tribunal, and he is party to the decision of the Tribunal. These facts show that Mr. Gian Chand, who had administratively taken a decision against the appellant, considered the matter judicially as a Chairman of the Tribunal, thereby he acted as a Judge of his own cause. While it is true that there is no allegation of personal bias against Shri Gian Chand, he may have acted bona fide, nonetheless, the principles of natural justice, fair play, and judicial discipline required that he should have abstained

from hearing the appellant's case. While considering the appellant's case, the Tribunal exercised judicial powers and it was required to act judicially, as the jurisdiction of the Civil Court and High Court have been excluded and vested in the Administrative Tribunal. The Members of the Tribunal must follow rules of natural justice in administering justice like Judges, they should not sit in judgment on their own decisions. Shri Gian Chand was disqualified to hear the appellant's case. The order of the Tribunal is vitiated on this ground but as the appellant had not raised any objection before the Tribunal against the participation of Shri Gian Chand, we do not consider it necessary to grant relief to the appellant on this ground.

15. In the case of C. Muralikrishna (3 supra), a Division Bench of this Court has taken the view that the Selection Committee cannot select a person who is not possessing the prescribed qualifications and experience on the ground that he possesses other qualifications and experience, which is equal or superior to that of prescribed under the Rules. It is held in the said judgment that it is not for the Selection Committee to replace the prescribed qualifications and experience by other types of qualifications and experience.

16. In the case of Gullapalli Nageswara Rao (4 supra), the Hon'ble Supreme Court has held in paras 5 and 6 as under:

5. The learned Advocate-General sought to make out a distinction between "official bias" of an authority which is inherent in a statutory duty imposed on it and "personal bias" of the said authority in favour of, or against, one of the parties and contended that the mere fact that the Chief Minister of the Government had supported the policy of Nationalisation, or even the fact that the Government initiated the said scheme, did not disqualify him from deciding the dispute unless it was established that he was guilty of personal bias, and that there was no legal proof establishing the said fact.

6. At this stage, it would be convenient to notice briefly, the decisions cited at the Bar disclosing the relevant principles governing the "doctrine of bias". The principles governing the "doctrine of bias" vis-a-vis judicial tribunals are well-settled and they are:

(i) no man shall be a judge in his own cause; (ii) justice should not only be done but manifestly and undoubtedly seem to be done. The two maxims yield the result that if a member of a judicial body is "subject to a bias (whether financial or other) in favour of, or against, any party to a dispute, or is in such a position that a bias must be assumed to exist, he ought not to take part in the decision or sit on the tribunal"; and that "any direct pecuniary interest, however small, in the subject-matter of inquiry will disqualify a judge, and any interest, though not pecuniary, will have the same effect, if it be sufficiently substantial to create a reasonable suspicion of bias". The said principles are equally applicable to authorities, though they are not courts of justice or judicial tribunals, who have to act judicially in deciding the rights of others, i.e., authorities who are

empowered to discharge quasi-judicial functions.

17. In the case of APSRTC v. Sri Satyanarayana Transports (P) Ltd. (5 supra), the Hon"ble Supreme Court has held;

The position in law in regard to the plea of bias raised against the Minister is not in doubt. It is clear that when the Minister heard the objections to the proposed schemes u/s 68D(2), he was dealing with the matter in a quasi-judicial manner and his inquiry had to conform to the principles of natural justice. It is an elementary rule of natural justice that a person who tries a cause should be able to deal with the matter before him objectively, fairly, and impartially. As has been observed in the Jewitt's Dictionary of English Law, "anything which tends or may be regarded as tending to cause such a person to decide a case otherwise than on evidence must be held to be biased". If a person has a pecuniary interest in the case brought before him, that is an obvious case of bias which disqualifies him to try the cause. If a person is hostile to a party whose cause he is called upon to try, that again would introduce the infirmity of bias and could disqualify him from trying the cause. In dealing with cases of bias, it is necessary to remember that "no one can act in a judicial capacity if his previous conduct gives round for believing that he cannot act with an open mind". The broad principle which is universally accepted is that a person trying a cause even in quasi-judicial proceedings, must not only act fairly, but must be able to act above suspicion of unfairness. As was observed in Franklin v. Minister of Town and Country Planning 1948 AC 87, "the use of the word "bias should be confined to its sphere. Its proper significance is to denote a departure from the standard of evenhanded justice which the law requires from those who occupy judicial office or those who are commonly regarded as holding a quasi-judicial office, such as an arbitrator. The reason for this clearly is that having to adjudicate as between two or more parties, he must come to his adjudication or bias towards one side or the other in dispute". That being the true position in law about personal bias, there would be no difficulty in holding that the Minister would be disqualified from hearing objections raised by the respective bus operators against the ten schemes if the material facts alleged by Ramakotaiah are held proved. It cannot be disputed that if the Minister had asked Ramakotaiah to help him in his election to the Election Committee of the Andhra Pradesh Congress Committee and when he was told that Ramakotaiah was unable to help him, he threatened him with dire consequences, that clearly would introduce a serious infirmity in the impugned order which the Minister passed u/s 68D(2).

18. In the case of A.K. Kraipak (6 supra), it was held by the Hon"ble Supreme Court;

It is unfortunate that Naqishbund was appointed as one of the members of the selection board. It is true that ordinarily the Chief Conservator of Forests in a State should be considered as the most appropriate person to be in the selection board. He must be expected to know his officers thoroughly, their weaknesses as well as their strength. His opinion as regards their suitability for selection to the

All India Service is entitled to great weight. But then under the circumstances it was improper to have included Naqishbund as a member of the selection board. He was one of the persons to be considered for selection. It is against all canons of justice to make a man judge in his own cause. It is true that he did not participate in the deliberations of the committee when his name was considered. But then the very fact that he was a member of the selection board must have had its own impact on the decision of the selection board. Further admittedly he participated in the deliberations of the selection board when the claims of his rivals particularly that of Basu was considered. He was also party to the preparation of the list of selected candidates in order of preference. At every stage of his participation in the deliberations of the selection board there was a conflict between his interest and duty. Under those circumstances it is difficult to believe that he could have been impartial. The real question is not whether he was biased. It is difficult to prove the state of mind of a person. Therefore, what we have to see is whether there is reasonable ground for believing that he was likely to have been biased. We agree with the learned Attorney-General that a mere suspicion of bias is not sufficient. There must be a reasonable likelihood of bias. In deciding the question of bias we have to take into consideration human probabilities and ordinary course of human conduct. It was in the interest of Naqishbund to keep out his rivals in order to secure his position from further challenge. Naturally he was also interested in safeguarding his position while preparing the list of selected candidates.

19. In paras 13 to 17 of the judgment in the case of S. Parthasarathi (7 supra), relied upon by the learned Counsel for petitioner, the Hon'ble Supreme Court has observed:

13. The letter written by the Medical Officer (Ex. B-8) would indicate that Manvi wanted to get rid of the services of the appellant on the ground of his mental imbalance and it was for that purpose that he tried to get a certificate to the effect that the appellant was mentally unsound. We are of the opinion that the cumulative effect of the circumstances stated above was sufficient to create in the mind of a reasonable man the impression that there was a real likelihood of bias in the inquiring officer. There must be a "real likelihood" of bias and that means there must be a substantial possibility of bias. The court will have to judge of the matter as a reasonable man would judge of any matter in the conduct of his own business (see R. v. Sunderland JJ.) (1901) 2 KB 357 .

14. The test of likelihood of bias which has been applied in a number of cases is based on the "reasonable apprehension" of a reasonable man fully cognizant of the facts. The courts have quashed decisions on the strength of the reasonable suspicion of the party aggrieved without having made any finding that a real likelihood of bias in fact existed (see R. v. Huggins (1895) 1 QB 563; R. v. Sussex JJ., ex p. McCarthy (1924) 1 KB 256; Cottle v. Cottle (1939) 2 All ER 535, R. v. Abingdon JJ. ex. p. Cousins (1964) 108 SJ 840. But in R. v. Camborne JJ. ex. p. Pearce (1955) 1 QB 41 the Court after a review-of the relevant cases held

that real likelihood of bias was the proper test and that a real likelihood of bias had to be made to appear not only from the materials in fact ascertained by the party complaining, but from such further facts as he might readily have ascertained and easily verified in the course of his inquiries.

15. The question then is: whether a real likelihood of bias existed is to be determined on the probabilities to be inferred from the circumstances by court objectively, or, upon the basis of the impressions that might reasonably be left on the minds of the party aggrieved or the public at large.

16. The tests of "real likelihood" and "reasonable suspicion" are really inconsistent with each other. We think that the reviewing authority must make a determination on the basis of the whole evidence before it whether a reasonable man would in the circumstances infer that there is real likelihood of bias. The court must look at the impression which other people have. This follows from the principle that justice must not only be done but seem to be done. If right minded persons would think that there is real likelihood of bias on the part of an inquiring officer, he must not conduct the enquiry; nevertheless there must be a real likelihood of bias. Surmise or conjecture would not be enough. There must exist circumstances from which reasonable men would think it probable or likely that the inquiring officer will be prejudiced against the delinquent. The court will not inquire whether he was really prejudiced. If a reasonable man would think on the basis of the existing circumstances that he is likely to be prejudiced, that is sufficient to quash the decision (see per Lord Denning, M.R. in *Metropolitan Properties Co. (F.G.C.) Ltd. v. Lannon* (1968) 3 WLR 694 at p. 707-etc.) We should not, however, be understood to deny that the court might with greater propriety apply the "reasonable suspicion" test in criminal or in proceedings analogous to criminal proceedings.

17. As there was real likelihood of bias in the sense explained above, we think that the inquiry and the orders based on the inquiry were bad. The decision of this Court in *The State of Uttar Pradesh Vs. Mohammad Nooh*, makes it clear that if an inquiring officer adopts a procedure which is contrary to the rules of natural justice, the ultimate decision based on his report of inquiry is liable to be quashed. We see no reason for not applying the same principle here as we find that the inquiring officer was biased.

20. In the case of *Dr. G. Sarana* (8 supra), the Supreme Court held,

The real question is not whether a member of an administrative Board while exercising quasi-judicial powers or discharging quasi-judicial functions was biased, for it is difficult to prove the mind of a person. What has to be seen is whether there is a reasonable ground for believing that he was likely to have been biased. In deciding the question of bias, human probabilities and ordinary course of human conduct have to be taken into consideration. In a group deliberation and decision like that of a Selection Board, the members do not function as computers. Each member of the group or board is bound to influence

the others, more so if the member concerned is a person with special knowledge. His bias is likely to operate in a subtle manner.

21. In the case of Ashok Kumar Yadav (9 supra), the Hon''ble Supreme Court has observed;

We agree with the petitioners that it is one of the fundamental principles of our jurisprudence that no man can be a judge in his own cause and that if there is a reasonable likelihood of bias it is "in accordance with natural justice and common-sense that the justice likely to be so biased should be incapacitated from sitting". The question is not whether the judge is actually biased or in fact decides partially, but whether there is a real likelihood of bias. What is objectionable in such a case is not that the decision is actually tainted with bias but that the circumstances are such as to create a reasonable apprehension in the mind of others that there is a likelihood of bias affecting the decision. The basic principle underlying this rule is that justice must not only be done but must also appear to be done and this rule has received wide recognition in several decisions of this Court. It is also important to note that this rule is not confined to cases where judicial power *stricto sensu* is exercised. It is appropriately extended to all cases where an independent mind has to be applied to arrive at a fair and just decision between the rival claims of parties. Justice is not the function of the Courts alone; it is also the duty of all those who are expected to decide fairly between contending parties. The strict standards applied to authorities exercising judicial power are being increasingly applied to administrative bodies, for it is vital to the maintenance of the rule of law in a welfare State where the jurisdiction of administrative bodies is increasing at a rapid pace that the instrumentalities of the State should discharge their functions in a fair and just manner".... "The likelihood of bias may arise on account of proprietary interest or on account of personal reasons, such as, hostility to one party or personal friendship or family relationship with the other. Where reasonable likelihood of bias is alleged on the ground of relationship, the question would always be as to how close is the degree of relationship or in other words, is the nearness of relationship so great as to give rise to reasonable apprehension of bias on the part of the authority making the selection.

22. In the case of G.N. Nayak (10 supra), the Hon''ble Supreme Court has held as under:

Bias may be generally defined as partiality or preference. It is true that any person or authority required to act in a judicial or quasi judicial matter must act impartially. "If however, "bias" and "partiality" be defined to mean the total absence of preconceptions in the mind of the judge, then no one has ever had a fair trial and no one ever will. The human mind, even at infancy, is no blank piece of paper. We are born with predispositions and the processes of education, formal and informal, create attitudes which precede reasoning in particular instances and which, therefore, by definition, are prejudices.

As we have noted, every preference does not vitiate an action. If it is rational and unaccompanied by considerations of personal interest, pecuniary or otherwise, it would not vitiate a decision. For example, if a senior officer expresses appreciation of the work of a junior in the Confidential Report, it would not amount to bias nor would it preclude that senior officer from being part of the Departmental Promotion Committee to consider such junior officer along with others for promotion.

23. In the case of Dr. Triloki Nath Singh (11 supra), the Hon"ble Supreme Court has observed as under:

...The above courses of study show beyond any manner of doubt that Hindi Language and Literature and, Linguistics are two different and separate subjects. It is also important to note that even graduates who have not passed the B.A. Examination with Hindi could be admitted and awarded the degree of M.A. in Linguistics. Merely because the Linguistics is also a subject of study in the paper of Hindi, it cannot be said that Linguistics and Hindi Language and Literature fall under the same subject of study in the University. It is an admitted position that separate panel of experts was drawn for the subjects of Hindi and Linguistics.

24. Reliance is also placed on the judgment of this Court in the case of K.V.L. Kameswari (12 supra), wherein, this Court has held;

The assessment should be made on the basis of objective criteria, namely, educational qualifications, experience and the performance at the time of interview and other relevant factors necessary having regard to the nature of the post to which the appointment/recruitment is made.

25. Another judgment upon which, the learned Counsel for petitioner has placed reliance is, in the case of A. Periakaruppan (13 supra), wherein, the Supreme Court has held that in the absence of specific provision in rules, the Committee must distribute total marks equally on various items by giving marks in lumpsum and not on itemised basis is illegal.

26. Another judgment relied upon by the learned Counsel for petitioner is in the case of Lila Dhar (14 supra), wherein, the Hon"ble Supreme Court has observed that the weightage to be given to interview would depend upon the particular service and various connected factors but no rigid test can be laid down. It is further held that considerations for determining percentage of marks to be allotted for interview in case of admissions in academic institutions cannot guide recruitments to public services.

27. On the other hand, it is submitted by Sri Sumanth, learned Standing Counsel appearing for respondents 1 and 2-Universities, and Sri K.V.N. Bhupal, learned Counsel appearing for respondents 3 to 5, that even in the instructions issued to the candidates, it is amply made clear that all the applications received will be scrutinized before calling the candidates for interview. It is submitted that the Committee constituted for screening of the applications, has scrutinized all the

applications of the applicants, who have applied for the posts of Reader and Lecturer in the Department of History, and those who are not fit into the criteria notified by the respondents, were not called for interview. It is submitted that though the name of the petitioner did not figure in the list of candidates short listed by the Screening Committee, but his candidature was considered only in view of the interim directions issued by this Court, although he was not qualified otherwise for interview. It is submitted that, in any event, as the petitioner was not even called for interview for the post of Reader, he has no locus standi to question the selection of respondent No. 3 as a Reader. It is further submitted that even with regard to the post of Lecturer, the petitioner has applied only for 2nd post, for which, his name also did not figure in the list of candidates short-listed to be called for interview, by the Selection Committee. It is submitted that in view of the directions issued by this Court by way of interim orders, though he was not eligible for participation in the interview, he was interviewed by the Selection Committee, and even on merits also, he did not come up for selection. Further, it is submitted that as much as the members of the Selection Committee, consisting of subject experts and academicians, have interviewed all the candidates and selected respondents 3 to 5, it is not open for the petitioner having faced the interview, to turn back and question the proceedings of the Selection Committee, and the authority of its members. It is submitted that the petitioner cannot himself judge his own merit and question the appointment of respondents 3 to 5, made by the duly constituted Selection Committee. It is further submitted that in the selections, one Ms. Supriya Verma is selected for the 2nd post of Lecturer in History, but as she did not join, the next meritorious candidate was appointed by giving appointment to respondent No. 5. In support of their arguments, the learned Counsel appearing for respondents have relied on the judgments in the case of Dr. Keshav Ram Pal, Reader and Head of Sanskrit Department and Offg. Principal, Lajpat Rai Post-graduate College, Sahibabad, Distt. Ghaziabad, U.P. Vs. U.P. Higher Education Services Commission, Allahabad and others, , Lila Dhar v. State of Rajasthan (14 supra), National Institute of Mental Health and Neuro Sciences Vs. Dr. K. Kalyana Raman and others, and in the case of Chandra Prakash Tiwari and Others Vs. Shakuntala Shukla and Others, .

28. With regard to the above rival contentions advanced by the learned Counsel appearing for the parties, I have perused the material and the original proceedings of selection process, produced by the learned Standing Counsel appearing for the respondents. Primarily, it is the contention of the petitioner that the procedure adopted by the respondents is illegal and arbitrary. Pursuant to the notification issued by the respondents, written instructions were issued to all the applicants and there were also general guidelines issued for screening the applications for faculty posts, which were also approved by the Executive Council. In the instructions issued to the candidates, it is clearly stated that the University will make preliminary selection of candidates on the basis of information furnished by them in their applications and possession of minimum

qualifications prescribed will not automatically entitle a candidate to be called for the test or interview, if better candidates are available. In view of the number of applications received for the posts of Reader and Lecturers in the Department of History, from the perusal of the proceedings, it is clear that all the applications were subjected to scrutiny as per the general guidelines, which are approved by the Executive Council. Originally, the writ petition is filed alleging that the petitioner was arbitrarily denied interview. In the affidavit filed in support of the writ petition, general allegations are made by merely stating that some vested interests in the University are preventing entry of the petitioner into the service of the University. Except such kind of allegations, there is no basis for filing of the writ petition. Upon a perusal of the Screening Committee proceedings, it is clear that as per the guidelines for screening of the applications, which are approved by the Executive Council, all the applications received for the posts of Reader and Lecturer were screened by the Screening Committee, and the Screening Committee has exhaustively went through the particulars like educational qualifications, age restrictions etc., of all the applicants and prepared the list containing the names of rejected candidates and the candidates, who are to be called for interview in the ratio of 1:5. The said procedure is adopted uniformly for all the applicants. Having regard to the norms fixed for screening of the applications, the application of the petitioner was rejected for both the posts of Reader and Lecturer. He was interviewed by the Selection Committee only in view of the interim directions issued by this Court to consider his candidature for the post of Lecturer. Though he has applied for the post of Reader also, but in view of rejection of his application at the screening stage itself, he was not even called for interview for appointment to the post of Reader. Though it is submitted that the applicants were kept in dark, and there was no set procedure for selection, but such contention of the learned Counsel for petitioner cannot be accepted, for the reason that in the instructions to the candidates, it was made clear at the very outset, that all the applications will be screened at the first instance by the Screening Committee to make their recommendations. If the Screening Committee has uniformly applied the guidelines approved by the Executive Council for the purpose of screening the applications, and applied the norms, it cannot be said that such a procedure adopted by the Screening Committee is either illegal or arbitrary. So far as Selection Committee is concerned, each Selection Committee member has graded the performance of each candidate by adopting the scale of assessment as "outstanding", "very good", "good", "average", "below average", "poor" and "unsatisfactory". In that view of the matter, it is not open for the petitioner to plead that the selection procedure was unguided. Even with regard to the allegation of bias, it is to be noted that the bias is alleged only with regard to appointment of respondent No. 3 on the ground that Sri Ajay Mitra Sastry, who was the Research Supervisor of respondent No. 3, was the member of the Selection Committee. With reference to the said plea, it is to be noted that in the affidavit filed in support of the writ petition, there is no such contention raised, and no permission is sought for raising such plea in additional grounds in the writ petition by filing an additional

affidavit. Such reference is vaguely made only in the affidavit filed in support of the application filed for impleadment of respondents 3 to 5 as party-respondents, after their selection. In any event, it is to be noted that the petitioner, whose application for the post of Reader is rejected at the stage of screening itself, cannot question the appointment of respondent No. 3. Though he has applied for the posts of Reader and Lecturer, his application was rejected for both the posts, but his case was considered by interviewing him only to the post of Lecturer, pursuant to the interim orders of this Court. As much as this Court is of the opinion that no illegality is committed by the members of the Screening Committee and that the said Committee has uniformly applied the norms which are approved by the Executive Council for screening of applications, the application of the petitioner was rightly rejected for both the posts of Reader and Lecturer. As the application of the petitioner was rejected only at the stage of screening so far as the post of Reader is concerned, it is not open for the petitioner to question the appointment of respondent No. 3, alleging bias. In any event, in the absence of any additional affidavit in support of the writ petition, it cannot be said that the selection of respondent No. 3 is biased. It is also to be noted that the Selection Committee consists of various members including number of experts from outside, apart from the members from the concerned Department, having academic expertise in the subject. All the individuals have separately given grades to the candidates, as such, there are no grounds made out by the petitioner to set aside the appointment of respondent No. 3 as a Reader. Even with regard to the appointments made to the post of Lecturer also, it is to be noted that the petitioner has applied only for the 2nd post of Lecturer. The 2nd post is in any area of historical research, whereas the 4th respondent herein is appointed to the 1st post, which is Medieval Indian History (Desirable: with research interest in Medieval Deccan). The petitioner, who has not even applied to the 1st post of Lecturer, which is in the subject of Medieval Indian History, questions the appointment of respondent No. 4 also, stating that he is not qualified to hold that post. As much as he has not applied to the 1st post of Lecturer out of the two posts, there is no basis to question the appointment to a post, for which, he is not the applicant. In any event, from the detailed counter affidavit filed by the respondents, it is clear that the Ph.D. theses of the 4th respondent is on "Spread of Buddhism" in certain parts of India, in the Medieval period, as such, it cannot be said that he is not qualified to hold the 1st post of Lecturer. In any event, it is for the experts, who are the members of Selection Committee, to examine the qualifications, but the petitioner, even without applying for the post, cannot seek for setting aside the appointment of respondent No. 4, on the ground that he was not possessing the requisite qualifications. With regard to the appointment of respondent No. 5 also, except stating that she is a fresh Ph.D., as such, is not eligible, no other ground is urged. With regard to respondent No. 5, as evident from the counter affidavit filed by the respondents, she did her M.A.M. Phil in History from Jawaharlal Nehru University, New Delhi, and did her Ph.D. from London. During her M. Phil study, she was awarded Junior Fellowship by the Indian Council of Historical

Research, and in her Ph.D. program also, she was awarded Commonwealth Fellowship. It is also clear from the counter that respondent No. 5 has Post-Doctoral Research experience as a Visiting Junior Associate Fellow at the Centre for the Study of Developing Societies (CSDS), New Delhi, from December 1996 to February 1998, and in addition to the same, she has undertaken three research projects. In view of the necessary qualifications notified for appointment to the post of Lecturer, it cannot be said that respondent No. 5 is not qualified to hold the 2nd post of Lecturer. By stating repeatedly that the petitioner is meritorious than respondents 4 and 5, the petitioner cannot judge himself and seek to set aside the appointment of respondents 4 and 5 on the said ground alone.

29. As much as this Court has already found that screening of the applications and further proceedings of the Selection Committee are in accordance with the norms notified to the applicants, the judgments relied upon by the learned Counsel for petitioner would not render any assistance in support of his arguments, having regard to the facts and circumstances of this case. It is also to be noted that the petitioner's application was rejected at the stage of screening itself, but for the interim orders granted by this Court, he would not have called for interview at all. As such, this Court is of the view that the Screening Committee has applied the norms notified by the University, which are approved by the Executive Council, uniformly to all the applicants, and therefore, there is no illegality or any irregularity in rejecting the application of the petitioner. Having regard to the criteria adopted for the purpose of screening the applications, it was done basing on the qualifications, experience, age, etc. In that view of the matter, the judgments relied upon by the learned Counsel for petitioner on the plea of bias and arbitrariness, would not render any assistance in support of his plea, so as to annul the appointments made pursuant to the recommendations made by the duly constituted Selection Committee.

30. Further, as rightly relied upon by the learned Counsel for respondents in the case of Chandra Prakash Tiwari (17 supra), the Hon'ble Supreme Court has held that when a candidate appears at the examination without protest, and subsequently found to be not successful in the examination, question of entertaining a petition challenging the said examination, would not arise. In the case on hand also, the petitioner, having faced the Selection Committee pursuant to the interim directions issued by this Court, when he has not come up for selection, cannot question the competency, authority or the procedure adopted by the Selection Committee. The above said ratio decided by the Hon'ble Supreme Court supports the case of respondents.

31. Further, in the case of National Institute of Mental Health and Neuro Sciences (16 supra), the Hon'ble Supreme Court has held that the function of the Selection Committee is neither judicial nor adjudicatory, but it is purely administrative. In the aforesaid judgment, the Hon'ble Supreme Court, while referring to a judgment of High Court of Karnataka, has held in para 7 as under:

We will first consider the second point. In the first place, it must be noted that the function of the Selection Committee is neither judicial nor adjudicatory. It is purely administrative. The High Court seems to be in error in stating that the Selection Committee ought to have given some reasons for preferring Dr. Gauri Devi as against the other candidate. The selection has been made by the assessment of relative merits of rival candidates determined in the course of the interview of candidates possessing the required eligibility. There is not rule or regulation brought to our notice requiring the Selection Committee to record reasons. In the absence of any such legal requirement the selection made without recording reasons cannot be found fault with. The High Court in support of its reasoning has however, referred to the decision of this Court in *Union of India (UOI) Vs. Mohan Lal Capoor and Others*, . That decision proceeded on a statutory requirement. Regulation 5(5), which was considered in that case required the Selection Committee to record its reasons for superseding a senior member in the State Civil Service. The decision in Capoor case was rendered on September 26, 1973. In June 1977, Regulation 5(5) was amended deleting the requirement of recording reasons for the supersession of senior officers of the State Civil Services. The Capoor case cannot, therefore, be construed as an authority for the proposition that there should be reason formulation for administrative decision. Administrative authority is under no legal obligation to record reasons in support of its decision. Indeed, even the principles of natural justice do not require an administrative authority or a Selection Committee or an examiner to record reasons for the selection or non-selection of a person in the absence of statutory requirement. This principle has been stated by this Court in *Punjab State Electricity Board, Patiala and Another Vs. Ravinder Kumar Sharma and Others*, , in which, Capoor case was also distinguished.

32. Further, in the case of *Lila Dhar* (14 supra), the Hon''ble Supreme Court has held in para 8 as under:

The second ground of attack must fail for the same reason as the first ground of attack. The Rules themselves do not provide for the allocation of marks under different heads at the interview-test. The criteria for the interview-test has been laid down by the Rules. It is for the interviewing body to take general decision whether to allocate marks under different heads or to award marks in a single lot. The award of marks under different heads may lead to a distorted picture of the candidate on occasions. On the other hand the totality of the impression created by the candidate on the interviewing body may give a more accurate picture of the candidate's personality. It is for the interviewing body to choose the appropriate method of marking at the selection to each service. There cannot be any magic formulae in these matters and courts cannot sit in judgment over the methods of marking employed by interviewing bodies unless, as we said, it is proven or obvious that the method of marking was chosen with oblique motive.

33. Reliance is also placed by the learned Counsel for respondents in the case of *Dr. Keshav Ram Pal* (15 supra), wherein, the Hon''ble Supreme Court has held:

Thus, the written examination assesses the man's intellect and the interview test the man himself and "the twain shall meet" for a proper selection. If both written examination and interview test are to be essential features of proper selection, the question may arise as to the weight to be attached respectively to them. In the case of admission to a college, for instance, where the candidate's personality is yet to develop and it is too early to identify the personal qualities for which greater importance may have to be attached on later life, greater weight has perforce to be given to performance in the written examination. The importance to be attached to the interview test must be minimal. That was what was decided by this Court in *Minor A. Peeriakaruppan and Sobha Joseph Vs. State of Tamil Nadu and Others*, , *Ajay Hasia v. Khalid Mujib Sehravardi and Ors.* cases. On the other hand, in the case of services to which recruitment has necessarily to be made from persons of mature personality, interview test may be the only way, subject to basic and essential academic and professional requirements being satisfied. To subject such persons to a written examination may yield unfruitful and negative results, apart from its being an act of cruelty to those persons. There are, of course, many services to which recruitment is made from younger candidates whose personalities are on the threshold of development and who show signs of great promise, and the discerning may in an interview test, catch a glimpse of the future personality. In the case of such services, where sound selection must combine academic ability with personality promise, some weight has to be given, though not much too great a weight, to the interview test. There cannot be any rule of thumb regarding the precise weight to be given.

34. In view of the aforesaid judgments relied upon by the learned Counsel for respondents, which would fully support their case, it is not open for the petitioner to assail the appointments made by the duly constituted Selection Committee, on the ground that the criteria adopted by such Selection Committee is either arbitrary or illegal. The criteria, which is adopted by classifying into seven grades to be given by each member of the Selection Committee and assessing the merit of the candidates based on such grading, cannot be said to be either illegal or discriminatory. Such a procedure is adopted for all the candidates, and in that view of the matter, in view of the opinion and performance recorded by the expert members of the Selection Committee along with the members of the University, who are also in the Committee, having academic expertise, it is not open for the petitioner to question such appointments on the ground that he is having superior merit over the selected candidates, by assessing on his own. In any event, it is also to be noted that pursuant to the selections made, and appointing orders being issued, appointing respondent No. 3 as Reader and respondents 4 and 5 as Lecturers, they have joined in the service of the University and completed about 9 years of service, and in the absence of any valid ground raised by the petitioner to annul the appointments at this stage, I do not find any merit in this writ petition, warranting interference with the selections made, and the appointment orders issued to respondents 3 to 5.

35. For the aforesaid reasons, the writ petition is devoid of merit and it is accordingly dismissed. No order as to costs.