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**(2016) 02 J&K CK 0023**  
**In the Jammu And Kashmir High Court**  
**Case No : LPAOW No. 14 of 2005**

Bhaderwah Films, J&K

APPELLANT

Vs

Union of India

RESPONDENT

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**Date of Decision :** 03-02-2016

**Acts Referred:**

**Citation :** (2016) 2 JKJ 766

**Hon'ble Judges :** Mr. N. Paul Vasanthakumar, CJ. and Mr. Bansi Lal Bhat, J.

**Bench :** Division Bench

**Advocate :** Mr. V.B. Gupta, Advocate, for the Appellants/Petitioners; Mr. Sindhu Sharma, ASGI, for the Respondents

**Final Decision :** Dismissed

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## Judgement

Mr. Bansi Lal Bhat, J. - Aggrieved of dismissal of their writ petition by the writ Court, the appellants have assailed the impugned judgment

dated 18th February, 2005 by virtue whereof the writ Court expressed its inability to examine issues relating to award of contract for telecast of

programmes in Bhaderwahi Dialect on the ground that this Court, in exercise of power of judicial review, would not examine the matters which are

to be evaluated by the Experts in the field. The writ Court was of the view that it could not examine correctness of the decisions of an Expert body

particularly in the field of skill, talent and technology and in absence of allegations of mala fides against Members of the Expert Committee, the writ

Court was not inclined to interfere.

2. Appellants, claiming to be the producers of Tele Films having expertise in Bhaderwahi Dialect submitted their proposals for telecast of their

programmes/telefilms on the Kashir Channel to official respondents for

evaluation. The proposals submitted by appellants being petitioners in OWP No. 29/2003, OWP No. 1150/2010 and OWP No. 312/2002 in Bhaderwahi Dialect came to be rejected whereas the proposal of appellant in OWP No. 1034/2002 in Pahari Dialect was turned down. Feeling aggrieved, the appellants, claiming to have expertise in Bhaderwahi Dialect being fully acquainted with the area known as Bhadradesh, its history, culture, dialogue, topography and local language approached the writ Court for quashment of rejection letters in respect of their proposals and also sought quashment of approvals granted to the programmes of private respondents. They also prayed for mandamus to direct the official respondents to approve the proposals of appellants for being telecast on Kashir Channel. It was contended before the Writ Court that the proposals of the private respondents approved by official respondents were not in Bhaderwahi /Pahari Dialects, that the private respondents were strangers to the area, that the local artists and talent had been ignored and that the evaluation had not been made in accordance with the guidelines formulated by Prasar Bharti. The writ Court, after noticing the relevant rules of General Guidelines and specific guidelines for the Kashir Channel declined to interfere with the opinion of Experts. It noticed that Bhaderwahi Dialect had been included in programmes of Kashir Channel for a limited purpose on the directions of Court keeping in view the Topography and location of the people in far flung and militancy affected areas. In their reply, the respondents pleaded that the Experts were not required to know all the languages/ Dialects to appreciate the proposals/programmes. It was pleaded that fresh consideration was granted to the appellants' proposal in the light of Court directions. The writ Court, on consideration of record, found that representatives of appellants had appeared before the Screening cum Costing Committee to explain their view points. It also noticed that the respondents had produced the details of various programmes prepared and telecast by private respondents on various channels including National and Regional Channels which established their credentials. Referring to the guidelines, the writ Court noticed that the proposals were required to be submitted in two parts, one covering the script, contents and concept etc. and the other cast for production of the programmes. The programmes were examined by two Expert

Committees, i.e. the Evaluation Committee and the Cost Committee. The stand taken by official respondents in their reply was that the

respondents constituted an Evaluation cum Costing Committee to consider the projects/proposals on the basis of contents, format, presentation,

synopsis, visual treatment and script etc. The writ Court was of the view that evaluation of these relevant factors was the job of Experts in the field

and the correctness of decision of an Expert Body could not be examined by the Court in writ jurisdiction.

3. Heard the rival sides and perused the record.

4. The appellants have assailed the impugned judgment on the ground that the writ Court failed to appreciate that the proposals invited by the

respondents in Bhaderwahi Dialect could not be submitted in any other language. The impugned judgment is further assailed on the ground that the

guidelines have not been followed in selecting the proposals.

5. It is not in dispute that Kashir Channel was set up to project and promote the culture and languages of the region and also encourage the local

talent. It is also not in dispute that specific guidelines were laid down to regulate the selection of projects/programmes produced by creative and

talented people with emphasis on local talent. Evaluation and Cost Committees were put in place for screening and evaluation of the

projects/programmes. Indisputably, Bhaderwahi was included as a Dialect under Court direction. It is not in controversy that evaluation of creative

value or worthlessness of a project/programme is the domain of the Experts and the decision of Experts in the field has to be final. Correctness of

such decision is not assailable in writ jurisdiction. The writ Court cannot substitute its own decision in place of the opinion of Experts. Of course the

decision making process could be assailed. However, the appellants have not alleged mala fides against members of the Expert Committee.

Nothing has been brought on record of the writ Court to demonstrate that Expert Committee was biased against the petitioners or that their

decision was influenced by oblique motive in according approval to a project/programme culminating in award of contract. Competence of Experts

in the field of linguistics, culture and arts too has not been questioned. Award of contract being essentially a commercial transaction, in absence of

public interest being involved, no interference would be warranted. Merely

because the approved proposals were submitted in English language, would not render the same repugnant to the norms, set out in the guidelines. Language is only a medium of expression and it cannot be said that Bhaderwahi culture could not be promoted by telecasting the locality visuals with commentary in English language. Special knowledge of the Expert Committee Members has played a decisive role in selecting the best out of various proposals submitted by producers. Their expertise in the field is not the subject of controversy. That apart, in matters of public contract, judicial review is impermissible.

6. We find no merit in the appeal. The same is accordingly dismissed.