

(2002) 05 DEL CK 0105
In the Delhi High Court
Case No : CW No. 776 of 2002

Dr. L.R. Nath and Others

APPELLANT

Vs

Delhi University and Another

RESPONDENT

Date of Decision : 20-05-2002

Acts Referred:

Citation : AIR 2002 Delhi 393

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Surat Singh, for the Appellant; A. Mariaputtam and Anurag Mathur, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan Sarin, J.—Question arising for consideration in this writ petition is the validity of a decision taken by the University of Delhi to discontinue the via voce course i.e.D.M./M.Ch.

This writ petition has been filed by doctors who have done their M.D. and are aspirants for a seat in the D.M./M.Ch. Course. The Post Doctoral Course i.e. D.M./M.Ch. is a super-specialty course of 3 years duration. The petitioners seek writ of certiorari for quashing the selection process for admission as it does not include a via voce test or interview and is confined to the written test.

2. Grievance of the petitioners is that all along till the year 2001, in addition to the written test, via voce/interview was held. Counsel for the petitioner submits that the candidates who have completed their MBBS and M.D. are assigned to handle critical patients in their field of speciality and they gain valuable practical knowledge and experience. The practical knowledge and experience is also of importance in the pursuit of D.M. or M.CH. Course. The practical knowledge and skill can only be adjudged by a interview/viva vocal test. The exclusion of the via vocal test puts the candidates, who excel in this sphere at a disadvantage in as much as their practical. knowledge and expertise is not considered and properly

evaluated for admission to D.M./M.CH. Course.

3. The petitioners urge that although in other premier medical institutions such as AIIMS, PGMIR (Chandigarh) and Christian Medical College (Vellore), written test and viva voce test both are held, the Delhi University without any reason or cause has discontinued the viva voce test/interview. It is urged that in AIIMS after written test candidates are called for departmental clinical assessment and finally an interview is held. The marks assigned to the interview are in the range of 15% or so. Petitioners have also reproduced in the writ petition the relevant provisions which provide for interview at the Christian Medical College (Vellore), Sree Chitra Tribunal institute for Medical Sciences and Technology, Thiruvananthapuram, Post Graduate Institute of Medical Education and Research, Chandigarh.

4. Let us consider and notice the legal position as it emerges from various decisions of the Supreme Court with regard to holding of the Via-voce test. The Supreme Court in *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, held that the allocation of more than 15% of total marks for interview was arbitrary. The Supreme Court observed as under:-

"The Oral interview test is undoubtedly not a very satisfactory test for assessing and evaluating the capacity and calibre of candidates, but in the absence of any better test for measuring personal characteristic and traits, the oral interview test must, at the present stage, be regarded as not irrational or irrelevant though it is subjective and based on first impression, its result is influenced by may uncertain factors and it is capable of abuse. However, in the matter of admission to college or even in the matter of public employment, the oral interview test as presently held should not be relied upon as an exclusive test, but it may be resorted to only as an additional or supplementary test and, moreover, great care must be taken to see that persons who are appointed to conduct the oral interview test are men of high integrity, calibre and qualification.

Under the existing circumstances, allocation of more than 15 per cent of the total marks for the oral interview would be arbitrary and unreasonable and would be liable to be struck down as constitutionally invalid. In the present case, Therefore, allocation of as high a percentage as 33 1/3 of the total marks for the oral interview could be regarded as infecting the admission procedure with the vice of arbitrariness and selection of candidates made on the basis of such admission procedure cannot be sustained."

In *Mehmood Alam Tariq v. State of Rajasthan* reported at 1988 SCC 757 recognised the interview and via voce test as an aid to selection. Supreme court observed as under:-

"There should be a search for the best talent particularly in relation to higher posts. However, as to the methods of assessment of efficiency, promise and aptitude, ideas and policies widely vary, though it has now come to be accepted that selection is an informed professional exercise which is best left to agencies

independent of the services to which recruitment is made. The "interview" is now an accepted aid to selection and is designed to give the selectors some evidence of the personality and character of the candidates. Macaulay had earlier clearly declared that a young man who in competition with his fellowmen of the same age had shown superiority in studies might well be regarded as having shown character also since he could not have prepared himself for the success attained without showing character in eschewing sensual pleasures. But the interview came to be recognised as an essential part of the process of selection on the belief that some qualities necessary and useful to public servants which cannot be found out in a written test would be revealed in a viva voce examination."

Learned counsel also relies on the observations made by the Supreme Court in *Anzar Ahmed Vs. State of Bihar and others*, , where the Supreme Court quoted with approval the following observations:-

"It is now well recognised that while a written examination assesses a candidate's knowledge and intellectual ability, an interview test is valuable to assess a candidate's overall intellectual and personal qualities. While a written examination has certain distinct advantage over the interview test there are yet no written tests which can evaluate a candidate's initiative, alertness, resourcefulness, dependableness, cooperativeness, capacity for clear and logical presentation, effectiveness in discussion, effectiveness in meeting and dealing with others, adaptability, judgment, ability to make decision, ability to lead, intellectual and moral integrity. Some of these qualities may be evaluated, perhaps with some degree of error, by an interview test, much depending on the constitution of the interview Board."

5. Learned counsel for the petitioner to further advance his arguments in favor of holding the via voce test submitted that the relevance and important of emotional intelligence has also been recognised in contemporary thinking. He refers to the comments of the learned author Daniel Goleman in working with emotive intelligence, which reads as follows:-

"Goleman reveals the skills that distinguish star performers in every field, from entry-level jobs to top executive positions. He shows that the single most important factor is not IQ, advanced degree, or technical expertise, but the quality Goleman calls emotional intelligence. Self-awareness, self-confidence and self-control; commitment and integrity; the ability to communicate and influence, to initiate and accept change - these competencies are at the premium in today's job market. The higher up the leadership ladder you go, the more vital these skills become often influencing who is hired or fired, passed over or promoted."

6. Learned counsel for the petitioner, Therefore, seeks quashing of the selection procedure adopted by the respondents, which has excluded the viva voce and interview. The position which emerges is that the viva voce or interview is a useful aid in selection process. Further that there are several personality traits

aptitude, initiative and capacity to lead etc. for which interview is essential. Any selection by interview, of necessity, includes an element of subjectivity. It is for this reason the Supreme Court has held that marks for interview are 33% or more it will make the selection process arbitrary.

7. Mr. A. Mariaputtam and Mr. Anurag Mathur, counsel for the respondent submitted that University had earlier been following the practice of written examination as well as the viva voce. However there have been complaints in the past and even now with regard to the interview test operating to the detriment to some of the more meritorious students, who did extremely well in the written test, yet for extraneous and other factors, candidates with less merit steal a march over them on account of interview marks. Counsel submits that with a view to put an end to any possibility of any bias or favoritism in the assessment by interview process, they have decided to do away with the viva voce test. Counsel for the respondents also submits that the holding of interview is really not essential for post doctoral course as the basic abilities and the pre-disposition and aptitude towards medicine of these candidates has already been assessed at the stage of their admission to MBBS and during the completion of M.D. Course.

8. I find merit in the submission of learned counsel for the University. It is solely within the prerogative and function of the University authorities to determine and decide the mode of selection process. In this connection reference may be invited to the decision of the Supreme Court in Javid Rasool Bhat and Others Vs. State of Jammu and Kashmir and Others, , wherein Supreme Court held as under:

"It is not within the province or even the competence of the courts to lay down hard and fast rules regarding selection procedure. The Court would not venture into such exclusive thickets to discover ways out, when the matters are most appropriately left to the wise expertise of medical academicians and public administrators. Courts interfere when the risk of arbitrariness is so high that arbitrariness is inevitable.

The Court cannot sit in judgment over the nature of the questions to be put by the members of the Selection Committee. If the question is not flippant or mere pretence, it is not the function of the Court to find out its relevance, the extent to which it is related to aptitude, general knowledge or general intelligence. Perhaps irrelevant questions may also be asked to explore the candidate's capacity to detect irrelevancies.

Likewise the question as to the subjects in which an entrance test may be held is hardly a matter for the Court, unless, of course, the subjects are so arbitrarily chosen as to have not the slightest connection with the object of the examination. It is a matter for the Selection Committee to decide whether general knowledge and general intelligence could be more appropriately tested in the viva voce test or in the written test.

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. However, it may be cautioned that allocation of a high percentage of marks for admission to under-graduate courses should be avoided as there is a risk of a certain amount of arbitrariness. But it cannot be said that the block marks should never be allocated for general knowledge and general intelligence for it is for the interviewing body to take a general decision whether to allocate marks under different heads or to award marks in a single lot. Further, it is always open to a selection Committee to insist on taking into consideration marks obtained at the examination by it only and excluding from consideration marks obtained in examinations held by other bodies."

9. in the present instance, the University of Delhi has reached the conclusion that the interview test can be dispensed with for a super speciality course such as D.M./M.Ch. The same cannot be called arbitrary or irrational. The University authorities have also produced the results of entrance examination held by them for the year 2000. From a perusal of the results produced, it is seen that the maximum marks for written test were 240 and 60 for the interview. A perusal of the results as produced reveal that a topper in the written examination due to poor marks in the interview/viva voce may not even make the grade for admission as the number of seats for M.Ch. and D.M. Course being limited. For instance a candidate secured 136 marks out of 240 in the written test but was awarded 48 marks out of 60 in the viva voce/interview making it a total of 184 marks. As against this, the topper in the written examination got 155 marks but was awarded only 14 in the viva voce/interview thus making a total of 169 in all. This brings into focus, the possible abuse, arbitrariness and subjectivity of selection by interview. Instances of a favorable pre-disposition of those conducting the interview towards candidates known to them or associated with them during the latter's pursuit of MBBS/MD Courses are not uncommon. While utility of the interview/viva voce test as an aid in assessment of the candidates, practical expertise and clinical assessment has to be recognised at the same time a system has to be developed with appropriate safeguards so as to eliminate abuse or reduce to minimal factors, such as, favorable dispositions, favoritism, nepotism during the interviews or viva voce tests. The results as produced tend to show that the marks obtained in the viva voce test/interview could be a determinative factor, especially when there is tough competition in the written examination.

10. Moreover, the assessment of personality traits is critical for recruitment to Civil Services or other positions where initiative, self confidence, resource fullness and leadership qualities are an absolute pre-requisite. While this may not be so, in case of admissions to Post Doctoral super-specialty Courses, where aptitude of the candidates towards medicine, their academic performance and capacity to work hard stand more or less established during their pursuit of MBBS and MD. Accordingly, it is not essential to follow the same pattern as is required in the case of civil services for assessment of personality traits.

In view of the foregoing discussion. I am of the view that the decision taken by the University of Delhi to dispense with interview/viva voce test, is a bonafide exercise of their power and discretion to make the selection process objective and to remove elements of subjectivity and arbitrariness to the extent possible.

Writ petition is accordingly dismissed.

The results as produced be returned to counsel for the respondent in a closed cover.