

(2007) 07 AHC CK 0164
In the Allahabad High Court

Dr. Ramesh Chandra Pandey and Others	APPELLANT
Vs	
State of U.P. and Others	RESPONDENT

Date of Decision : 24-07-2007

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2007) 7 AWC 7002

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Arun Tandon, J.—U.P. Secondary Education Services Selection Board, Allahabad published Advertisement No. 1/05 inviting applications for appointment as L.T. Grade Teachers (Social Science) against vacancies available in various recognized Intermediate Colleges situate through out the State. The total number of vacancies so advertised was 399.

2. The petitioners applied in pursuance to the advertisement. After their applications were processed, they were issued admit cards. The written examination took place on 28.02.2006. On 20th May, 2006 result of the written examination was declared wherein 1912 candidates were shown as eligible for interview. On 14th June 2006 an additional list of 634 successful candidates eligible for interview was published. Thus against 399 available vacancies, 2546 candidates were invited for participation in interview.

3. On 11th July 2006 interview call letters were issued to the candidates successful in the written examination. The interview commenced from 2nd July, 2006. As against two Interview Boards, as displayed on the web site of the Board, as many as 5 different Interview Boards were constituted and candidates were interviewed on different dates.

4. Large number of candidates, who were not successful in the written examination were in fact permitted to participate in the interview. On 24th July,

2006 an Interview Board was constituted only for one candidate namely Rajesh Kumar Singh, who was neither declared successful in the written examination nor his roll number was displayed in the interview call list.

5. At this stage of the proceedings, present writ petition was filed with the prayer that the entire process of selection in pursuance to the Advertisement No. 1/2005, pertaining to the subject of Social Science, be quashed with a further prayer that the respondent may be restrained from holding any interview for the posts in question.

6. On behalf of the petitioner serious allegations of unfairness, violation of statutory rules and nepotism have been levelled against the U.P. Secondary Education Services Selection Board and its officers. Such allegations shall be dealt with serially herein under.

7. It is contended on behalf of the petitioner that the entire process of selection is dehors the statutory rules, arbitrary and unfair. It has been contended that the procedure adopted for selection has to go as a whole, inasmuch as entire selections are based on a spoiled system. Counsel for the petitioner has taken the Court through the records of the present writ petition for pointing out that at every stage of selection there has been illegality and unfairness. Therefore, the Court proceeds to deal with the procedure adopted by the U.P. Secondary Education Services Selection Board stage-wise.

Stage-1. Submission of Applications and allotment of Roll Numbers:

8. Sri U.N. Sharma Senior Advocate, appearing on behalf of the U.P. Secondary Education Services Selection Board, on 10.10.2006 informed the Court that after the applications are received along with requisite fee (complete in all respect) in response to the advertisement, the same are processed and admit cards, bearing roll number for appearance in the written examination to be conducted by the U.P. Secondary Education Services Selection Board including details of the examination centres, are forwarded by registered post at the address disclosed by the applicant himself in his application form. Simultaneously the admit cards are also up linked on the website of the U.P. Secondary Education Services Selection Board. Every candidate, who has applied, has been furnished detail knowledge qua the examination centres and the roll numbers allotted to them not only through registered post but also through web site.

9. It is admitted on record that for the purposes of the written examination board had divided the entire state of U.P. into 9 Regions. Roll numbers are in 9 digits. First two digits denote the Region of the examination centres. Second two digits denote the subject, while remaining five digits denote the serial number of the candidates.

10. From the records of the present writ petition it is admitted that 41 candidates, who were allotted roll numbers and examination centres at different places situate through out the State for appearance in the written examination,

in fact assembled on the date of the examination at Gopi Radha Balika Inter College, Ravindrapuri, Varanasi i. e. 28th February, 2006. All these 41 candidates, who were not allotted Gopi Radha Balika Inter College, Ravindrapuri, Varanasi as examination centre, were in fact permitted to undertake the written examination from the said centre and all were accommodated in one room of the institution. It has been pointed out by the counsel for the petitioner that out of these 41 candidates, roll number of 30 candidates find mention in the first list of successful candidate (invited for participation in interview).

11. The Secretary of the U.P. Secondary Education Services Selection Board on his own changed the examination centres of 7 other candidates and allotted them new roll numbers, after scoring out their original roll numbers. Other 21 candidates were similarly permitted to appear in the written examination from the centres not allotted to them under an alteration made by the Secretary of the Board.

12. On being confronted with the aforesaid facts, Senior Advocate appearing on behalf of the U.P. Secondary Education Services Selection Board stated that these illegalities cannot be justified, inasmuch as such acts run contrary to the provisions of the U.P. Secondary Education Services Selection Board Act, Rules and Regulations framed there under. Suffice is to reproduce the stand taken by Sri U.N. Sharma Senior Advocate in respect of the aforesaid aspect of the matter, as recorded under the order of the Court dated 10.10.2006, which read as follows:

Sri U.N. Sharma, learned Senior Advocate who has put in appearance on behalf of the U.P. Secondary Education Services Selection Board, Allahabad submits that all the applications are received by the Board till the due date in response to an advertisement are processed and admit cards are issued for written examination to the applicants concerned by registered post on the address disclosed in the application itself. Further, name of every candidate, roll number allotted and the center allocated for written examination is also uploaded on the website of the Board. Every candidate, who has applied has full knowledge of the center and the roll numbers allotted to them by the Board.

Sri Sharma has stated that (a) allotment of the roll numbers at the center by the Supervisor of the center, (b) change of roll numbers by the Secretary of the Commission cannot be legally justified under any provisions of Selection Board Act or Rules and Regulations framed thereunder. He submits that the permission to 41 candidates to appear from one room of the center at Gopi Radha Balika Inter College Ravindrapuri, Varanasi. while in fact he had been allotted centers at other places in Varanasi and outside Varanasi by the Commission also cannot be justified. He states that 7 candidates whose centers were changed by the Secretary of the Selection Board with allotment of new roll numbers also is not in accordance with the procedure prescribed.

Sri U.N. Sharma further submits that the contention raised on behalf of the

petitioner to the effect that the interview of the 41 candidates who had appeared from the center which were not allotted to them by the Board i.e. at Gopi Radha Balika Inter College, Ravindrapuri, Varanasi and 21 candidates who appeared at the centers as altered by the Secretary of the Board was illegal, cannot be questioned and the examinations of such candidates should have been cancelled immediately the said fact was brought to the knowledge of the Board. Similarly permission for appearing in the written examination from a changed center which was allotted to the candidate by the Secretary of the U.P. Secondary Education Services Selection Board, is not based on any procedure fixed for holding the selection and legally not justified. Therefore, it is submitted that the Commission has committed a mistake in calling such candidates for interview and by allocating marks to such candidates.

It is also submitted that the board shall take care of the provisions of Rule 12 of U.P. Secondary Education Services Selection Board Rules, 1998 and shall accordingly reduce the number of candidates to be considered for appointment leaving out the candidates who had been called in excess of the ratio fixed under Clause 10 of the Rules 12 (sic), it should be Sub-clause (6) of Rule 12.

In respect to 7 candidates whose result was declared as supplementary result and had also been invited for interview, it has been stated that there is nothing on the record that the result was ever advertised in any newspaper nor it was uploaded on the website. He, therefore, submits that invitation to 7 candidates for appearing in the interview through private correspondence is not justifiable. However, they have appeared in the interview and marks have awarded to them by the Selection Board.

Lastly, it has been stated that the Selection Board shall ensure that the results are declared only after the aforesaid illegalities noticed above are taken care of and there is no cause of complaint left.

Since the case cannot proceed due to the paucity of time, let this matter be put up for hearing on 17.10.2006.

13. Thus according to the U.P. Secondary Education Services Selection Board it is an admitted position that the permission to the candidates to appear at the changed centers, alteration of the centres and roll numbers by the Secretary is totally illegal and unjustified. Both in written submission as well as during oral submission, counsel for the Board has fairly stated that the Board shall itself score out the candidature of the candidates, who have been given illegal privileges of alteration of centres, change of roll numbers etc. It is, therefore, not necessary for this Court to issue any further directions in that regard. However, it is clarified that any candidate, who had not appeared from the original examination centre allotted in his favour as per the information up linked by the Board on the website or forwarded by registered post to the candidate concerned after receipt of his application complete in all respect, shall stand excluded from the zone of consideration for appointment against the post advertised.

14. This Court may further record that six petitioners before this Court are the beneficiaries of the same spoiled system of the change of centre and have appeared in the written examination from Gopi Radha Balika Inter College, Ravindrapuri, Varanasi in place of examination centres originally allotted to them. They shall also be dealt with accordingly.

Stage-2. Report of the Observer appointed by the Board to supervise the examinations.

15. In paragraph 11 of the detail counter affidavit filed on behalf of the U.P. Secondary Education Services Selection Board it has been stated that Principal of the College, where the centre in respect of the written examination is fixed, is made the Centre Superintendent with liberty to appoint an additional Centre Superintendent. In paragraph 12 of the counter affidavit it has been stated that two observers are appointed by the Board to supervise the examination at each centre and they remain present at the centre from the start of the examination till its completion. In paragraph 23 of the counter affidavit it has been stated that Dr. Kaushal Kishore Misra, the then member of the Board was appointed as the Incharge of the Varanasi Region along with two additional Incharge Dr. Ram Bali Yadav and Dr. Salik Singh.

16. Dr. Kaushal Kishore Mishra has filed his personal affidavit in the present writ proceedings and in paragraph 4 of his affidavit it has been stated that a detail report was submitted by the observer to the Board as also by the deponent of the affidavit (Kaushal Kishore Mishra) to the Chairman in respect of the examination held at Gopi Radha Balika Inter College, Varanasi on 28th February, 2006.

17. Sri R. K. Ojha, Counsel for Dr. Kaushal Kishore Mishra, made a statement before the Court that the report so submitted contains detail fact about the participation of 41 candidates from one particular centre (not allotted to them) and all these candidates were accommodated in one room,

18. The Chairman of the U.P. Secondary Education Services Selection Board, however, denied the stand so taken by Dr. Kaushal Kishore Mishra and has stated that no such report was ever received by him. To the similar effect is an affidavit filed by Dr. Sohan Lal Yadav the other observer appointed by the Board in respect of the centres at Varanasi. The matter requires detail investigation by the authorities themselves.

19. However, this Court may record that if the observers appointed in respect of the written examination do not submit any report about the illegalities, which are committed at any particular examination centre, there is no any reason for their appointment. They are not to remain mere spectators in respect of the examinations which they are required to supervise. This Court may therefore record that if the observers have not submitted their report despite serious infirmities qua participation of unauthorized candidates in the written examination at Gopi Radha Balika Inter College, Varanasi or any other centre,

they are totally dis-entitled for any remuneration to be paid to them. The Board must obtain a report in writing in respect of every centre from the observers appointed in respect of the written examinations to be held in future. The report would necessarily disclose the illegalities which are committed amongst other material facts.

Stage-3. Evaluation of the answer sheets.

20. In paragraph 41 of the main counter affidavit it has been admitted on behalf of the Board by the Secretary that the first list of successful candidates containing names of 1992 candidates for participation in interview was declared on 20.05.2006. Certain complaints were received from the candidates that the answer sheets have not been properly evaluated and that in the subjects of History, Geography, Economics and Civics many questions contained two correct answers and therefore both were liable to be treated to be correct.

21. The Chairman in these circumstances appointed an Expert Committee comprising of subject experts of the University/Degree Colleges for re-evaluation of the model answers (key answers). The experts reported that certain questions contained two correct answers and both should be treated to be correct. The Chairman, therefore, issued orders for rechecking of the answer books of all the candidates, who had appeared in Social Science subjects, and after rechecking 634 extra candidates were declared successful in addition to the original list of 1912 candidates.

22. Accordingly, supplementary result containing roll number of 634 additional candidates was declared on 14th June, 2006. The facts stated in that regard are contained in paragraph 41 of the main counter affidavit. To similar effect is the stand taken by the Chairman in paragraphs 3 and 4 of his supplementary affidavit dated 04th September, 2006. Along with the supplementary affidavit of the Chairman minutes of the meeting of the Board dated 29th May, 2006 have been enclosed, whereby certain questions alone have been referred in the subject of History, Civics, Economics and Geography for the expert opinion to the team of experts mentioned in the resolution itself.

23. From the aforesaid facts, it is now an admitted position that the key answers, as originally prepared by the Board, were incorrect. The issue which arises for consideration is as to whether the questions referred to in the resolution dated 29th May, 2006 alone contained incorrect key answers/more than one correct key answer or there are other key answers suffering from same infirmity. No facts in that regard have been placed nor the Chairman of the U.P. Secondary Education Services Selection Board had courage to state that all other questions and key answers feeded in the computer were correct or that all other questions had only one correct answer.

24. This Court records that the question paper in respect of the written examination held by the Board contained more than one correct answers, therefore the key answers feeded in the computer to that extent were incorrect.

On the said ground the evaluation of the answer sheets of the candidates as well as the marks awarded to them would automatically be vitiated and does not reflect their true merit.

Stage-4. Invitation for participation in interview.

25. Rule 12(6) of the U.P. Secondary Education Services Selection Board Rules, 1998 provides that for securing due representation of candidates belonging to the reserved category in respect of the post of teachers, the Board shall call for interview such candidates who have secured the maximum marks under Sub-clause (4) in such "manner that the number of candidates shall not be less than three and not more than 5 times of the number of vacancies."

26. From the aforesaid statutory provisions it is established beyond doubt that the maximum number of candidates who could be invited against an advertised post is 5. This ratio is to be maintained in respect of each category of the post i. e. with reference to the reservation applicable e.g. Scheduled Caste, Scheduled Tribes and Other Backward Classes etc. separately. The break up of 399 vacancies, which were advertised, is as follows:

1. Male General 126 2. Male OBC 92 3. Male SC 148 4. Male ST 1 5. Female General 12 6. Female OBC 8 7. Female SC 12

27. That against the said advertised vacancies the total number of candidates who could be called for interview in the ratio of 1:5 works out to 1995 only to be precise the candidate who could be invited for interview would be as follows:

1. Male General 630 2. Male OBC 460 3. Male SC 740 4. Male ST 5 5. Female General 60 6. Female OBC 40 7. Female SC 60 _____ Total 1995

28. Having regard to the said figures, which are in conformity with the statutory provisions, the original list of the successful candidates declared by the U.P. Secondary Education Services Selection Board on 20th May, 2006 contained name of 1992 candidates only, although detail category-wise in strict conformity with the rules has not been furnished. However, it is admitted to the respondents that an additional list of successful candidates, after re-evaluation of the answer sheets of the written examination, containing roll number of 634 additional candidates was declared on 14th June, 2006. Thus, the total number of candidates invited for interview as against 399 vacancies in fact reached the figure of 2546.

29. In paragraph 41 of the main counter affidavit it has been stated by the Secretary of the Board that these 634 candidates were declared successful in addition to the original list without disturbing the original result. It has further been specifically admitted by the Board that all 2546 candidates in fact have been permitted to participate in the interview. To the similar effect is the stand taken by the Chairman of the Board himself in paragraph 3 of the affidavit filed by the Chairman dated 11.09.2006.

30. It is thus admitted on record that the number of candidates invited for interview against 399 vacancies was in teeth of the statutory Rule 12(6) of the U.P. Secondary Education Services Selection Board Rules, 1998. Therefore, the proceedings of the interview also stand vitiated.

31. At this stage Court may deal with the explanation furnished by the Board qua illegal participation of 634 candidates in excess of ratio prescribed. On behalf of the Chairman it is submitted that on the ratio of 1:5, 2042 candidates were entitled to participate in the interview and therefore roll number of 404 candidates, who have participated in the interview, is legally to be scored out. However, out of 404 candidates none find place in the final select list after interview and therefore this illegality is only an irregularity which may be ignored.

32. The explanation so furnished by the Chairman of the Board is misleading and clearly an attempt to deceive the Court. If 634 candidates, after reevaluation, become entitled to participate in the process of interview, it necessarily follows that certain other 634 candidates, who had secured lesser marks than the aforesaid candidates included in the first list of selected candidates notified on 20.05.2006, had necessarily to be scored out and could not have been permitted to participate in the interview. These unauthorized 634 candidates, whose names were mentioned in the first list declared on 20th May, 2006, were not entitled to participate in the process of interview. However they have participated and number of such candidates finally selected, after interview, has not been disclosed.

33. It is needless to emphasis that no facts /details have been disclosed before this Court for establishing as to which category these 634 candidates belonged nor the Board has made any attempt to segregate them. Treating unequals as equals for the purpose of invitation for interview would also be violative of Article 14 of the Constitution of India and per se discriminatory and arbitrary. Inter se merit of unauthorized participant vis-a-vis candidates legally entitle for interview after rechecking is not to be determined.

34. Names of 634 candidates in the first list published on 20th May, 2006, who were outside the zone of consideration, have necessarily to be scored out first and thereafter merit list has to be redrawn in the respective categories based on the overall performance of eligible candidates entitled to participate in the interview only. These facts have only been highlighted to demonstrate that the illegality committed by the Board qua participation of ineligible persons in interview is not so simple as demonstrated by the Chairman. Illegal participation of 634 candidates in the interview has the effect of vitiating the entire selections.

35. It may further be emphasis that the interview list has to be prepared category wise and not on lump sum basis as the Chairman of the Board has tried to explain. Category of 634 candidates, who have been declared successful after re-evaluation of the answer sheets, have to be allotted place in list qua the category to which they belong and placed accordingly. Any other candidates

lower in merit and beyond the ratio of 1:5, has to be taken out from the original list of 1912 declared on 20th May, 2006 belonging to the same category for the purposes of compliance of the statutory provisions and it is only thereafter a comprehensive list in accordance with the rules could be prepared for the purpose of participation in interview.

Stage-5. Interview marks.

36. The interview sheets have been produced before this Court in original and have been examined by the Court. It may be stated that the interview sheets have been signed by only one person, which according to the counsel for the Board was the President of the said Interview Board. It has been explained that some interview sheet contains the total of interview marks and special mark awarded in respect of B. Ed., M. Ed. and Ph. D. qualifications/for participation in sports. While in some sheets the marks awarded by the President of the Interview Board have been recorded separately along with special marks and in the last column the total so worked out has been noticed.

37. Reference may be had to Rule 8 of the U.P. Secondary Education Services Selection Board (Procedure and Conduct of Business) First Regulations, 1998, which lays down the Constitution of the Interview Board. Under the said rule, for appointment of teachers belonging to Arts Group, four members may be associated to form the Interview Board. Clause 3 lays down that there shall be at least one member and two experts in an Interview Board, but the Board may, if it thinks necessary so to do, include more than one member or more than two experts in Interview Board or constitute an Interview Board with one member and one expert. The proceedings of the Interview Board are required to be placed before the Board for approval, which may also be obtained by circulation or by hand.

38. Thus normally in respect of teachers belonging to Arts group, the Interview Board is comprised of four persons and Board may, if it thinks necessary so to do, constitute the Interview Board with one member and one expert, which is in form of an exception to the normal rule. In any view of the matter, in no case the Interview Board can comprise of less than two members.

39. Rule 12(4) of the U.P. Secondary Education Services Selection Board, Rules, 1998 lays down the procedure for preparation of the select list separately for each category of posts on the basis of marks obtained in the written examination and marks for special merits. For ready reference Rule 12(4) reads as follows:

12(4) The Board shall prepare list for each category of posts on the basis of marks obtained in the written examination and marks for special merits as follows-

(a) 85 per cent marks on the basis of written examination;

(b) 10 per cent marks on the basis of interview which shall be divided in the following manner namely:

- (i) 4% marks on the basis of general knowledge;
 - (ii) 3% marks on the basis of personality test;
 - (iii) 3% marks on the basis of ability of expression.
- (c) 5 per cent marks on the basis of following special merits, namely:
- (i) 2% marks for having Doctorate Degree;
 - (ii) 2% marks for having Master of Education (M.Ed.) degree;
 - (iii) 1% marks for Bachelor of Education (B.Ed.) degree:

Provided that no marks under this clause shall be awarded to a candidate who has obtained marks under Sub-clause (ii),

- (iv) 1% marks for the participation in any national level sports competition through State team.

40. Under Rule 12(4) the interview marks of 10 per cent marks, have been divided as follows:

- (i) 4% marks for general knowledge, (ii) 3% marks for personality test and (iii) 3% marks for the ability of expression.

41. Separately 5 per cent marks for special merits have been provided for i. e. 2% marks for having Doctorate Degree, 2% marks for having Master of Education (M.Ed.) degree, 1% marks for Bachelor of Education (B.Ed.) degree and additional 1% marks for the participation in any national level sports competition through State team.

42. From the aforesaid statutory provisions, it is apparently clear that the rule does not contemplate awarding of lump sum marks during interview and that too by the Chairman of the Board alone, as has been done in the present case. Marks during the interview must be awarded with reference to the performance of the candidate qua his (a) general knowledge, (b) personality and (c) ability of expression separately. The purpose of division of the marks during the interview under the said rule has been deliberately provided by the rule framing authority. All the members of the Interview Board are therefore required to award marks with reference to these three indices mentioned under the rules separately.

43. This Court may record that the members of the Interview Board are required to act independently and to award marks to the candidates on the indices, mentioned under the rules on their own. A member of the Interview Board is not required to act as a mere spectator and to watch awarding of the marks by the President of the Board and that too on the lump sum basis. The marks as have been awarded by the Interview Board run contrary to the scheme of the statutory rules. Awarding of lump sum marks by the President of the Interview Board alone cannot be said to be in conformity thereto.

44. This Court may emphasize that the Hon''ble Supreme Court as well as the Division Benches of the Hon''ble High Court have repeatedly held that if law requires something to be done in a particular manner, it has to be done in the manner prescribed or not at all. Reference be had to the recent judgment in the case of Professor Ramesh Chandra v. State of Uttar Pradesh and Ors. Civil Misc. Writ Petition No. 51370 of 2005, decided on 11th June, 2007). The Division Bench of this Court has held as follows:

When the Statute provides for a particular procedure, the authorities has to follow the same and cannot be permitted to act in contravention of the same. It has been hither to uncotroverted legal position that where a statute requires to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods or mode of performance are impliedly and necessarily forbidden. [(1) State of Uttar Pradesh Vs. Singhara Singh and Others, (2) A.K. Roy and Another Vs. State of Punjab and Others, and (3) Chandra Kishore Jha v. Mahavir Prasad (1998) 8 SCC 266]

The aforesaid settled legal proposition is based on a legal maxim "Expressio unius est exclusio alterius", meaning thereby that if a statute provides for a thing to be done in a particular, then it has to be done in that manner and in no other manner and following other course is not permissible. This maxim has consistently been followed, as is evident from the cases referred to above. A similar view has been reiterated in Haresh Dayaram Thakur Vs. State of Maharashtra and Others, Delhi Administration Vs. Gurdip Singh Uban and Others, Dhananjaya Reddy v. State of Karnataka etc. etc. (2001) 4 SCC 9 ; Commissioner of Income Tax, Mumbai Vs. Anjum M.H. Ghaswala and Others, Prabha Shankar Dubey v. State of Madhya Pradesh AIR 2004 SC 486 ; and Ram Phal Kundu Vs. Kamal Sharma,

45. Thus this Court holds that the selection held in pursuance to the advertisement are vitiated at every stage of the selection and such selections are non est being de hors the statutory rules, arbitrary and faulted with favouritism.

46. At this stage the Court may deal with the contention of Sri Umesh Narain Sharma Senior Advocate to the effect that the Hon''ble Supreme Court of India in the case of Union of India (UOI) and Others Vs. Rajesh P.U., Puthuvalnikathu and Another, has held that if the beneficiaries of irregularities or illegalities can be segerated then an attempt must be made to save the selection of the candidates whose selection is not vitiated. The principle laid down by the Hon''ble Supreme Court of India referred to above, cannot be doubted. However, the judgment of the Hon''ble Supreme Court itself notices an exception namely, if there are widespread infirmities of an all-pervasive nature, which could be really said to have undermined the very process itself in its entirety or as a whole, the selections in their entirety must go.

47. In the facts of the case, as already noticed above, not only the procedure prescribed under the Statutory Rules has been violated, the records established

favoritism, arbitrary exercise of powers without application of mind, therefore, this Court feels that such selection, which are farce and mere a paper transaction, must go as a whole. This Court feels that no purpose would be served by saving selections which are an out come of an spoiled system. The Hon"ble Supreme Court in the case of State of U.P. and others Vs. U.P. State Law Officers Association and others, has held that there is no public interest involved to save illegal appointments, which are based on a spoiled selection. The relevant portion of the judgment of the Hon"ble Supreme Court is being quoted herein below:

There is, therefore, no public interest involved in saving all appointments irrespective of their mode. From the inception some engagements and contracts may be the product of the operation of the spoiled system. There need be no legal anxiety to save them.

48. In the totality of the circumstances, as have been noticed herein above, this Court records that the entire process of selection initiated in respect of appointment of teachers in the subject of Social Science by the U.P. Secondary Education Services Selection Board in pursuance to the Advertisement No. 1/2005 is replete with illegalities at every stage and has to be quashed as a whole. It is ordered accordingly and following directions are being issued.

(1) The U.P. Secondary Education Services Selection Board get correct keys obtained afresh in respect of all the subjects of written examination held. For the purpose of obtaining the correct key answers, the Board shall forward the question papers to a team of experts to be appointed with the approval of the Vice Chancellor of the Allahabad University, which may comprise of Professors and Readers of the University of Allahabad (Central University). After the correct key-answers are obtained from the team of experts, the same shall be feeded in the computer and the answer sheets of all the candidates, who have appeared in the written examination, shall be re-evaluated. The Board shall thereafter declare the list of the successful candidates on the basis of merit so prepared category-wise for participation in interview.

(2) The candidates, who have appeared from changed centres or who have been allotted new roll numbers by the Chairman/Secretary of the Board or were otherwise ineligible for appearance in the written examination, shall be excluded from the zone of consideration and their answer sheets shall not be evaluated as per the statement made by Sri U.N. Sharma, counsel for the Board, as noticed in the order of the Court dated 10.10.2006 and dated 14.11.2006.

(3) The number of candidates to be invited for interview shall be confined to the ratio fixed under Sub-clause (6) of Rule 12 of the U.P. Secondary Education Services Selection Board Rules, 1998 and no candidate beyond the prescribed ratio shall be invited for interview.

(4) Interview Board shall be constituted strictly in accordance with Rule 8 of the U.P. Secondary Education Services Selection Board Rules, 1998. Each member of

the Interview Board shall allocate marks to the candidates concerned in respect of each indices separately as provided for under Rule 12(4) of the U.P. Secondary Education Services Selection Board, Rules, 1998 i. e. 4% marks for general knowledge, 3% marks for personality test and 3% marks for ability of expression. The average of the marks awarded by the members of the Board shall be worked out and recorded.

(5) The merit of the candidate shall be prepared after addition of the marks obtained in the written examination, interview and other special merit marks and final select list declared category-wise.

49. Rest of the procedure as prescribed under the rule for empanelment of the selected candidate shall be followed by the Board. The entire exercise, as indicated above, may be completed within four months from the date a certified copy of this order is filed before the Chairman of the U.P. Secondary Education Services Selection Board.

50. In respect of future written examination the Board shall ensure that every observer appointed submits his report in writing in respect of written examinations supervised.

51. Since result of the selection has not been declared till date no further orders are required to be passed in that regard. The candidates selected, after the exercise as indicted above is completed, shall be offered appointment at the earliest.

52. Writ petition is disposed of subject to the observations made above.

53. Let the records produced before this Court be returned to the counsel for the Board by the Bench Secretary.