

(2003) 07 MP CK 0069

In the Madhya Pradesh High Court

Case No : Writ Petition No's. 1068, 1096, 1132, 1164, 1310 and 1448 of 2002

Ku. Nalini Chauhan and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 29-07-2003

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2003) 3 MPHT 541 : (2003) 4 MPLJ 78

Hon'ble Judges : Rajendra Menon, J

Bench : Single Bench

Advocate : S.P. Jain, in W.P. No. 1068/2002, C.S. Dixit, in W.P. Nos. 1164, 1310 and 1448/2002 and S.K. Sharma, in W.P. Nos. 1096 and 1132/2002, for the Appellant; K.N. Gupta, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Rajendra Menon, J.

As common questions are involved in all these petitions and identical grounds have been raised, they are being disposed of by this common order. However, for the sake convenience, the facts and documents filed in W.P. No. 1164 of 2002, are being considered for disposal of these cases.

All the petitioners applied for selection as trainee workers in Ayurved Department in pursuance to advertisement (Annexure P-3). The advertisement was for appointment of Ayurved Women Health Workers (Dhai) in training centres situated at Raoun, District Bhind and Kolaras, District Shivpuri. It is the case of the petitioners that in pursuance to the advertisement, they submitted their applications along with necessary documents. On receipt of the same, respondents constituted a Selection Committee and on the basis of the merit, the said Committee conducted interview of the candidates and prepared select list and waiting list vide Annexure P-4 and P-5. After selection, vide various orders dated 20-3-2002 as contained in Annexure P-6, the petitioners have been

directed to join for training which was to commence from 15-4-2002 as is evident from Annexure P-7. It is the case of the petitioners that on receipt of the aforesaid order, they joined the training and before joining the training, certain declarations and surety bonds were executed by the petitioners in favour of the respondents.

After completing the requisite formalities, the petitioners joined the training and while undergoing the training for about one month, on 16-5-2002, vide Annexure P-1, the Chief Executive Officer, Zila Panchayat, Shivpuri intimated the Principal of the Training Institute, Kolaras that as certain irregularities have been found in the selection process, action is being taken, therefore, further training be stopped until further orders. Similar orders were passed by the Secretariat of the Indian System of Medicine and Homoeopathy, Bhopal on 30-5-2002, vide Annexure P-2. In pursuance to the aforesaid, petitioners apprehend that the training will be suspended and their selection could be cancelled, therefore, approached this Court by way of these petitions mainly on the ground that cancellation of their selection without hearing them, without giving them reasonable opportunity of submitting their say in the matter and without following the principles of natural justice is illegal.

This Court by various orders had stayed implementation of Annexures P-1 and P-2, dated 16-5-2002 and 30-5-2002 in all the cases and in view of the interim order, the petitioners are continuing in the training.

The main ground of challenge to the action of the respondents are that the petitioners are qualified and on due selection, they have been selected to undergo the training, therefore, stopping them from training on the ground of irregularities in the selection is not proper as the selection is done in accordance with the rules. It is also submitted by them that the Collector has no authority to direct for an enquiry and order for cancellation. Action at the instance of the Collector is unsustainable as the respondent No. 2, the competent authority, having approved the select list, can not direct for cancellation of the same. Referring to Annexure P-6, dated 20-3-2002, it is submitted that petitioners were directed to join and orders were issued to them after approval by the respondent No. 2, and therefore, cancellation of the entire selection without following the basic principles of natural justice is unsustainable. Prayer made is to direct the respondents to permit the petitioners to continue with the training and grant consequential relief.

On notice being issued, respondents have filed a reply and it is the case of the respondents that the Director, Indian System of Medicine and Homoeopathy, Madhya Pradesh, Bhopal had invited applications for one year training course of Women Health Workers in Ayurved for the sessions 2001-2002 vide Annexure P-3, published in various news papers. As far as the Government Women Ayurved Training Centre, Kolaras, District Shivpuri is concerned, there were 30 seats for General candidates, 10 seats for Scheduled Caste, 12 seats for Scheduled Tribe and 8 seats for Other Backward Classes. In all, there were 60

seats in this training centre. The object of such a training is to prepare Women Health Workers in the field of health and family planning and child care development. After training, these candidates are posted in Government Ayurved and Unani dispensaries and hospitals.

It is the case of the respondents that vide order dated 23-9-2002, Annexure R-1, certain directions have been issued for the purpose of constituting the Selection Committee for selecting the candidates. The Committee should consist of the President, Government Ayurved College, Gwalior, Collector, District Shivpuri or his representative not below the rank of S.D.O., and Superintendent-cum-District Ayurved Officer, Gwalior and Principal, Government Women Ayurved Health Worker Training Centre, Kolaras as Members. In the present case, the Committee was not constituted in accordance with the aforesaid circular, instead the Principal, Government Women Ayurved Health Workers Training Centre, Kolaras received the applications himself and in an arbitrary manner scrutinised the applications and prepared the merit list of candidates for training under his signature and conducted the selection in an arbitrary manner and the list prepared was illegal. Various complaints were received and there was a lot of hue and cry. Questions were asked in the floor of the State Legislature and various news items have been published regarding irregularities in various news papers, details of which are given in the reply and complaints were received from certain persons, namely; Kumari Anuradha, Kumari Vimla Lohia and Smt. Manju Sharma. These were got enquired into and on the basis of the enquiry report, following irregularities were found:--

- "(a) Selection of the women candidate for the training has not been made by Committee constituted as per order (Annexure R-1);
- (b) The applications of Ku. Anuradha Sharma and Smt. Manju Sharma was rejected by Principai while this power vests with the Committee;
- (c) Letter to Ku. Vimla Lohia for attending the Training Centre sent by the Ordinary post while it should have been sent by the Registered Post and she could not receive the letter, therefore, could not join the training centre;
- (d) For joining the Training Centre, different dates given for the candidates while it should be a common date;
- (e) No order passed of authorisation to R.P. Shrivastava to despatch the letters for calling the candidates for training;
- (f) The Peon, Pancham Singh given statement that he has not despatched such letters;
- (g) The principal shown presence of 9 SC candidates on 30-4-2002, 7 OBC candidates on 4-4-2002, 5 ST candidates on 5-4-2002, but there are no signatures in the attendance register and other illegalities found in the selection of the candidates....."

Accordingly, the Chief Executive Officer, Zila Panchayat, Shivpuri has submitted a report (Annexure R-2). Based on the aforesaid, pending further enquiry into the matter, training was suspended.

During pendency of the petition, a detailed enquiry was ordered, Dr. M.K. Goyal, Asstt. Director, Indian System of Medicine and Homoeopathy, enquired into the matter and submitted his report as contained in Annexure R-5. The enquiry officer has pointed out various irregularities in the selection. It is put forth that in view of the aforesaid enquiry report and the findings recorded therein, the entire selection being vitiated, no relief can be granted to the petitioners.

It is also averred in the return that in the meanwhile, the respondent No. 2 had constituted a fresh Selection Committee consisting of the Collector of the district or his representative, not below the rank of Additional Collector as President, Assistant Director, Ayurved, Bhopal and Superintendent-cum-District Ayurved Officer, Gwalior as Members and the said Committee has submitted a detailed list of candidates in various categories who are entitled to be selected. The said list is filed as Annexures R-6, R-7, R-8, R-9 and R-10 consisting of general candidates, other backward classes, Scheduled Caste, Scheduled Tribe and waiting list respectively. It is also averred in the return that because of the irregularities committed in the matter of selection, action is being taken against the Principal of the Training Centre, Shri B.L. Bagoriya, Lecturer of the Training Centre, Shri R.P. Shrivastava and one Dr. Sitaram Gupta. Their orders of suspension have been brought on record.

It is, therefore, the case of the respondents that selection being vitiated, no relief can be granted to the petitioners and petition is liable to be dismissed.

In W.P, No. 1164 of 2002, a detailed rejoinder has been filed and in the rejoinder the contentions of the respondents in the return is being refuted.

It is submitted on behalf of the petitioners that Annexure R-1, the order dated 23-9-2000 constituting the Selection Committee is only for the year 2000-2001 and the same is not applicable for the current session, 2001-2002. The Principal had approached the competent authority, President of the Selection Committee as contained in Annexure R-1 for his guidance vide Annexure A. But, the said authority indicated that the circular, Annexure R-1 is for the session, 2000-2001, and therefore, he can not give any guidance as he is not a President of the Selection Committee. That being so, a Selection Committee was constituted by the Principal of the training centre consisting of Principal himself, Dr. Sitaram Gupta, Superintendent-cum-District Ayurved Officer, Dr. R.D. Gupta, Block Medical Officer, Kolaras. The said Committee conducted the selection and prepared the merit list, Annexure "G", according to which, selections have been made. It is, therefore, the case of the petitioners that the selection is by a committee and the committee has not committed any illegality in the selection.

That apart, by filing various documents, like Annexure "B", dated 2-5-2002, a letter from Dr. Sitaram Gupta, C.M.O., Shivpuri, regarding constitution of a

Selection Committee and enclosing three enquiry reports submitted by one Dr. D.S. Bhadoria, R.M.O., Government Ayurved Hospital, Shivpuri and by referring to documents, C, D and E, filed along with rejoinder, it is emphasised that there are serious infirmities in the procedure. Dr. D.S. Bhadoria, R.M.O., has submitted three reports, which are too vague and Cannot be relied upon. Annexure R-2, the report submitted by the Chief Executive Officer, Zila Panchayat indicates that his report is based on enquiry conducted by one Dr. R.N. Sharma, Deputy Collector but the said report is not on record. Complaints filed by Kumari Anuradha Sharma, Kumari Vimla Lohia and Smt. Manju Sharma are not on record. Annexure R-5 the report submitted by Dr. M.K. Goyal along with the return is undated and not signed. The said report has been withdrawn and another report has been brought on record along with T.A. No. 318/2003 on the ground that there are some typing mistakes in Annexure R-5 filed with the return. It is contended that the substituted report (Annexure R-5) filed with T.A. No. 318/2003 has been manufactured subsequently and annexures have been added. In the said report, certain words and signatures which were not available in the earlier report have been added. In all, the contentions of the petitioners are that proper enquiry has not been conducted, documents have been manipulated, and therefore, in an arbitrary manner, the entire proceedings have been taken place. It is also emphasised that Kumari Vimla Lohia and Smt. Manju Sharma who are said to have filed a complaint are selected candidates and Smt. Vimla Lohia is petitioner in W.P. No. 1164/2002, therefore, there can not be any complaint by these persons. Similarly, it is contended that Smt. Manju Sharma is a student undergoing training. It is also stated that the complaint by these two persons is false. Placing reliance on a judgment of this Court in the case of Arvind Kumar Sahu Vs. State of M.P. and Others, , it is argued by learned Counsel appearing for the petitioners that cancellation of the selection to the petitioners without hearing them and without giving them opportunity to submit their say is unsustainable and the entire action for stopping the training and cancellation thereof is illegal and can not be sustained.

On behalf of the petitioners arguments were advanced at length by Sarva Shri C.S. Dixit, S.K. Sharma and S.P. Jain, and on behalf of the State, Shri K.N. Gupta, Government has made is submissions.

I have heard learned Counsel for the parties at length and perused the record.

As far as contention of the petitioners that Annexure R-1, dated 23-9-2000, is constituting a Selection Committee for the year 2000-2001 and not for the current session is concerned, it may be correct. But the question remains as to how the Selection Committee consisting of three persons which prepared Annexure (G" was constituted. There is nothing on record to indicate that the Principal of the Training Centre in question was authorised to constitute the Selection Committee. Even if, Annexure R-1 was not applicable in the present case, the Selection Committee should have been constituted by a competent officer. In this regard, the records are silent and neither party has produced

anything to show as to how the Selection Committee is to be constituted, the petitioners have failed to establish that the Selection Committee which selected them was constituted in accordance with law. The enquiry report indicates that the Selection Committee has been illegally constituted.

Even though various submissions were made with regard to the genuineness of the enquiry reports brought on record, but the facts that emerge from the same indicate the following:--

(a) Annexure R-2 is a report of the Chief Executive Officer, zila Panchayat, Shivpuri on the basis of some enquiry report submitted by one, R.N. Sharma, Deputy Collector. In the said report, Annexure R-2, apart from constitution of the committee, various irregularities with regard to rejection of application of Kumari Anuradha Sharma, Kumari Vimla Lohia and Smt. Manju Sharma have been pointed out. Discrepancies in the matter of call letters and despatch whereof dated 20-3-2002, difference in percentage of marks of different candidates have been highlighted.

(b) Thereafter, Annexure R-5 is another report, submitted by Dr. M.K. Goyal. A perusal of the same goes to indicate that this is an enquiry which was conducted and the report was submitted when these petitions were pending before this Court because in the said report, a reference is made to W.P. No. 1068/2002 and W.P. No. 1096/2002. Admittedly, therefore, this report is a result of certain enquiry conducted after notices were issued by this Court and stay was granted. In this report also various irregularities in the matter of selection have been pointed out. Even though during the course of hearing, learned Counsel by referring to Annexure R-5 as originally filed with the return and the substituted Annexure R-5 along with T.A. No. 318/2003, emphasised that this is a false and fabricated document.

But, I am of the considered view that the same can not be very much relevant in view of the facts that are available on record and which are being discussed hereunder.

The objections and submissions made by learned Counsel for the petitioners during the course of hearing, challenging the procedure adopted by the respondents to be arbitrary and unreasonable, even though prima facie appear to be very much convincing and full of force, from the material which have been filed by the petitioners and the respondents, certain glaring irregularities in the selection are apparent from the face of the record. If these glaring infirmities in the selection are considered, I find no reason why to go into the objections raised with regard to non-grant of opportunity or falsehood and fabrication of the documents. I am of the considered views that the glaring infirmity which is apparent from the face of the record is by itself sufficient to hold that the selection is vitiated and the respondents were right in cancelling the entire selection.

In this regard, petitioners themselves have filed the so called selection list,

Annexure "G" along with the rejoinder on the basis of which the petitioners have been selected. A perusal of the aforesaid list indicates that the first person in the merit list of general candidates had received 75% in the High School examination and the last person at serial No.30 had obtained 52%, and she has been selected. In the said list, Column No. 1 is Serial Number, Column No. 2 is Receipt No. & date, Column No. 3 is name and other particulars of the candidates, Column No. 4 is marks received in the High School Examination, Column No. 5 is percentage of marks in the said examination, Column No. 6 pertains to date of birth and age as on 1-1-2001, Column No. 7 pertains to qualification and Column No. 9 is residence of the candidate concerned. The merit list has been prepared on the basis of the percentage of marks obtained in the High School Examination by the candidates. Accordingly, the merit list is in descending order, candidate at Sl. No. 1 having received 75% and Sl. No. 30, last candidate has received 52%.

Compared to this, a second list of merit prepared by a Committee constituted by the competent authority submitted vide Annexure R-3. This Committee has scrutinized all the applications which were there before the earlier Committee which had prepared, Annexure "G" and the same 10 columns as are available in Annexure "G" are available in the merit list enclosed with Annexure R-6. Even though, in the said merit list prepared by the subsequent committee, candidates of Scheduled Caste and Scheduled Tribe and Other Backward Classes had received more percentage of marks than general candidates have been included on the ground that this is as per policy of recruitment. Comparison of both these merit lists, indicates the following glaring infirmities:--

In the merit list prepared by the subsequent committee vide Annexure R-6, the general candidate whose name appears at Sl. No. 2 had received 76% and the candidate at Sl. No. 30, where the merit list ends had received 65.2%. Therefore, it is seen that in the list, Annexure "G", merit of general candidates starts from 75% and ends at 52%, meaning thereby, the candidates who had received higher percentage of marks in the High School Examination are not included in the list, Annexure "G". It is seen that Kumari Asha Bhargav at Sl. No. 2 in the list enclosed with Annexure R-6 had received 76%. Her name does not figure in Annexure "G". In Annexure "G", the person at Sl. No. 1 had received 75% and person at Sl. No. 2 had received 69% whereas Kumari Asha Bhargav at Sl. No. 2, Kumari Sujata Yadav, and Smt. Pushpa Upadhaya, who had received marks ranging from 76% to 72.6% of the list annexed with Annexure R-6 have been left out in the selection list, Annexure "G". It is surprising that in the selection list, Annexure "G", after 75%, candidate at Sl. No. 2 had received 69% and the names of the candidates from 76% to 72.6%, as indicated hereinabove are missing. The candidate at Sl. No. 2 of Annexure "G", Smt. Primala Raj who had received 69% appears at Sl. No. 17 of list enclosed with Annexure R-6 and in between candidates at Sl. Nos. 2, 5 to 15 of Annexure R-6 who had received more marks above her, i.e., 70.2% or above have been excluded. Similarly, in Annexure "G", candidates at Sl. No. 3, Smt. Simarjeet Raghava had received 66.3% and she has been selected whereas in Annexure R-6, the said candidate's

application has been rejected on the ground that her application has been received late. In the enquiry report, it is also indicted that after receipt No. 331-A/44-2002, entry of Smt. Simarjeet Raghava has been made by interpolating her name at Sl. No. 331-A. Thereafter, if we continue to scan the list again, Sl. No. 4 Smt. Manjulata Shrivastava of list of Annexure "G" appears at Sl. No. 29 in the list enclosed with Annexure R-6 who had received 65%, whereas Sunita Yadav at Sl. No. 18 of Annexure R-6 and persons at Sl. Nos. 21, 22, 23, 26, 27, 28 and 29 who had received 65.2% have been left out in Annexure "G" and persons who had received less than 56% are included in Sl. No. 4 onwards and persons receiving 59%, 58%, 57%, 56%, 54%, 53% and 52% have been included in the list Annexure "G". If this list, Annexure "G" is correct merit list then it is a mystery as to why persons who had received marks ranging from 68.7% to 65.2% have been left out in the said list.

The only inference that can be drawn by comparison of the merit list enclosed with Annexure R-6 is that Annexure "G" has been prepared in an arbitrary manner and candidates who had received 58% and 59% have been selected whereas candidates whose names appeared at Sl. Nos. 2, 6 to 15, 18, 21, 23, 26, 28 and 30 of Annexure R-6 and who had received more marks than the candidates whose names figure in Annexure "G", from Sl. No. 4 onwards have been left out. Similar irregularities are apparent from the list of candidates of Scheduled Caste, Scheduled Tribe and Other Backward Classes also. In the category of Other Backward Classes also, the selection list prepared by the subsequent selection list, during pendency of the petition, Annexure R-7 indicates that candidates with percentage of 64.4% to 60%, i.e., from Sl. Nos. 1 to 7 do not figure in the list, Annexure "G" prepared by the earlier Selection Committee. The first person in the said list, namely; Kumari Mamta Verma and second person Kumari Vandana Shivhare have received 66.9% and 65%. These candidates have been included in the list, Annexure R- 6 as general candidates as they had received more percentage of marks than the other selected general candidates. Thereafter at Sl. No. 3 of the list of Annexure "G" at page 44 of the rejoinder, Kumari Nazma Khan who had obtained 57.8% and she has been selected. Thereafter persons with 57%, 54% and 51% have been selected whereas in Annexure R-7 at page 47 of the return, persons at Sl. Nos. 1 to 7 had received percentage ranging from 64.4% to 60% who have received higher percentage than the persons at Sl. Nos. 3 to 8 of Annexure "G". This clearly indicates that in the selection list prepared vide Annexure "G" persons with lower percentage have been selected and persons like Smt. Geeta Yadav whose names appeared at Sl. Nos. 1 to 7 of Annexure R-7 filed along with the return and who had received more percentage have been left out in Annexure "G". The same infirmity continues in other list prepared for Scheduled Caste and Scheduled Tribe also. So also, waiting list prepared indicates such infirmity. It is seen that in Annexure "G", the list earlier prepared persons with less percentage have been selected and if not selected put in the waiting list whereas persons who had received higher percentage have been left out.

The purpose of elaborately indicating the aforesaid infirmities is to consider the argument raised on behalf of the petitioners to the effect that enquiry has not been properly conducted and documents have been fabricated. For a moment, if the entire material including the enquiry reports are ignored and Annexure R-6 and Annexure "G" are scrutinized, the irregularity committed and the arbitrary manner in which selection was conducted by the earlier committee is writ large. It is crystal clear from the aforesaid merit list that the persons who had received higher percentage of marks were not selected in the earlier selection and persons receiving lower percentage of marks have been included in the merit list.

The argument advanced on behalf of the petitioners have to be considered in the backdrop of the aforesaid glaring infirmity which is apparent from the face of the record on the basis of the admitted documents filed by the petitioners themselves vide Annexure "G", This Court can not give its stamp of approval to the selection conducted on the basis of which the petitioners were selected and are undergoing training. The entire selection is per se illegal and vitiated, complaints of non-compliance with the principles of natural justice, or not affording opportunity of hearing to the petitioners and consideration of the infirmities pointed out by the petitioners during the course of hearing, in my opinion, if considered in the light of glaring irregularities which are apparent from the face of the record, it has to be held that no prejudice has been caused to the petitioners, selection of the petitioners if permitted to be upheld, will amount to perpetuating the illegality in the matter of selection.

The question of personal hearing and following the principles of natural justice in such matters of selection where irregularities have been established was recently considered by the Supreme Court in the case of Union of India and Others Vs. O. Chakradhar, . In the aforesaid case, the Hon'ble Supreme Court after considering a earlier judgment in the case of Krishan Yadav and another Vs. State of Haryana and others, , in Paragraphs 7 and 8, it has been observed as under:--

"..... In the case of Krishan Yadav (supra) the allegations of favouritism and arbitrariness in holding the selection for the post of Taxation Inspectors by Subordinate Selection Board were made. Those candidates whose performance was excellent were not selected. An inquiry was ordered by the Supreme Court to be held by CBI, The report revealed acts of favouritism, selection without interview even on the basis of fake or ghost interview, tampering with the record and fabrication of documents etc. In such circumstances it was held that entire selection was vitiated even in respect of those who had already been appointed and had been working for a past few years. It was further observed that individual cases of innocence have no relevance in such circumstances....."

In our view the nature and the extent of illegalities and irregularities committed in conducting a selection will have to be scrutinized in each case so as to come to a conclusion about future course of action to be adopted in the matter. If the mischief played is so widespread and all pervasive, affecting the result, so as to make it difficult to pick out the persons who have been unlawfully benefited or

wrongfully deprived of their selection, in such cases it will neither be possible nor necessary to issue individual show-cause notices to each selectee. The only way out would be to cancel the whole selection. Motive behind the irregularities committed also has its relevance."

In the case of O. Chakradhar (supra), persons were appointed and they were working in the post for more than 2 to 3 years and their applications were allowed by the Central Administrative Tribunal and the order was upheld by the High Court. But after making observations as indicated hereinabove, in Paragraphs 7 and 8, the entire selection was cancelled and it was observed in Paragraph 12 as under :--

"As per the report of CBI the whole selection smacks of malafides and arbitrariness. All norms are said to have violated with impunity at each stage viz., right from the stage of entertaining applications, with answer-sheets while in the custody of Chairman, in holding typing test in interview and in the end while preparing the final result. In such circumstances, it may not be possible to pick out or choose a few persons in respect of whom alone the selection could be cancelled and their services in pursuance thereof could be terminated. The illegality and irregularity are so intermixed with the whole process of the selection that it becomes impossible to sort out the right from the wrong or vice versa. The result of such a selection cannot be relied or acted upon. It is not a case where a question of misconduct on the part of a candidate is to be gone into but a case where those who conducted the selection have rendered it wholly unacceptable. Guilt of those who have been selected is not the question under consideration but the question is, could such selection be acted upon in the matter of public employment ? We are, therefore, of the view that it is not one of those cases where it may have been possible to issue any individual notice of misconduct to each selectee and seek his explanation in regard to the large-scale widespread and all pervasive illegalities and in regularities committed by those who conducted the selection which may of course possibly be for the benefit of those who have been selected but there may be a few who may have deserved selection otherwise, but it is difficult to separate the cases of some of the candidates from the rest even if there may be some. The decision in the case of Krishan Yadav (supra) applied to the facts of the present case. The Railway Board's decision to cancel the selection can not be faulted with. The appeal, therefore, deserves to be allowed.""

The case in hand if viewed in the backdrop of the aforesaid legal principle indicates that in the present case also, the selection has been done in an arbitrary manner which can not be approved under any circumstances.

During the course of hearing, Counsel appearing for the petitioners submit that the petitioners have spent a lot of money, coming from far of places and are undergoing training, their training is virtually complete and are only required to appear in the examinations and looking to all these factors, the selection should be approved. I am afraid such sympathetic and humanitarian consideration can

not be a ground for granting relief to the petitioners, the violation and irregularity in the selection proceedings, which are apparent from the face of the record is taken note of. This Court while considering the question of granting relief to the petitioners is at the same time required to be conscious of the fact that justice has to be done to the other eligible candidates who have received more percentage of marks than some of the petitioners and who have been deprived of their rightful claim to be selected because of the irregularities in the selection. This Court is not only a Court of law but it is a Court of justice also and justice has to be done to all. If sympathetic consideration to some result in denial of just and rightful claim of the other eligible persons, this Court would be failing in its duty in the matter of dispensation of justice and by approving the selection of the petitioners, by ignoring the facts which have come on record when the candidates with more marks than the petitioners have been illegally kept out of the select list, it will amount to violation of the right of equity guaranteed under the Constitution with regard to persons who have not been selected.

Considering the aforesaid, I am not inclined to accept the proposition put forth by Counsel appearing for the petitioners that they having undergone the training and the selection be approved. The respondents on noticing the infirmities and illegalities in the selection had stopped the training within one month of its commencement. It was only because of the interim order passed by this Court that the petitioners are continuing in the training. Under these circumstances, the training undergone in view of the interim order can not be a ground for approving their selection in the backdrop of the glaring irregularities which have been noticed by this Court in the matter of selection.

Considering the totality of the facts and circumstances of the case, I find no ground for interference in the petitions. The petitions are accordingly dismissed and the interim order stand vacated. Respondent No. 2, the Director, Indian System of Medicine and Homoeopathy is directed to conduct selection afresh after constituting a proper Selection Committee in accordance with rules and proceed to decide the selection in accordance with law.

Petitions stand dismissed.

Parties to bear their own cost.

A copy of this order be placed on the record of the other writ petitions.