

**(1989) 02 GUJ CK 0012**  
**In the Gujarat High Court**  
**Case No : L.P.A. No. 15 of 1989**

Kumkum Prakasham

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

**Date of Decision :** 09-02-1989

**Acts Referred:**

Constitution of India, 1950 — Article 226, 299

**Citation :** AIR 1990 Guj 12 : (1989) 2 GLR 1109

**Hon'ble Judges :** P.R. Gokulakrishnan, C.J.; P.M. Chauhan, J

**Bench :** Division Bench

**Advocate :** N.J. Mehta, for the Appellant; M.D. Pandya, Govt. Pleader, P.M. Dave, B.C. Patel and H.V. Pujara, for the Respondent

## Judgement

P.R. Gokulakrishnan, C.J.—All the respective counsels waive service of notice on behalf of the respective parties.

2. All the learned counsels appearing for the respective parties in this letters patent appeal have agreed to dispose of this appeal finally and hence arguments were heard.

3. The main special civil application No. 6921 of 1988 was filed by the appellant herein praying to quash and set aside the selection of books by the selection committee and awarding the contracts to respondent numbers 3 to 8 for the supply of children's books worth about Rs. 46 lacs under the Operation Blackboard Scheme. Apart from other things, the main allegation in the petition is that one Vimuben Badheka included in the committee was interested in the selection of the books of her father-in-law put up in the tender of Gurjar Sahitya Bhavan; that those books have been selected; and that the selection of the books by the selection committee is vitiated and violative of the principles of natural justice. Further averment is that yet another member by name Hasubhal Yagnik is the Registrar of the Gujarati Sahitya Academy tender Professor Suresh Dalai who is the vice chairman of the Gujarati Sahitya Academy. Hence, the selection of books written by Professor Suresh Dalal wherein Hasubhai Yagnik is

one of the Selection Committee members is vitiated and violative of the principles of natural justice. The learned single Judge who disposed of the special civil application No. 6921 of 1988 has observed that simply because Smt. Vimuben Badheka happens to be the daughter-in-law of Shri Gijubhai Badheka who has died before about 20-30 years by no reasonable standard it can be said that Smt. Vimuben Badheka would act with bias in favour of her late father-in-law. The learned single Judge has also observed that the copy-rights of the books written by late Shri Gijubhai Badheka have been sold away to one publisher. As regards Hasubhai Yagnik, in view of the development in the jurisprudence, it is too much to think that Shri Hasubhai Yagnik who is serving as Registrar- in the Academy will be influenced by Professor Suresh Dalal who is the Vice-Chairman of the Academy. While observing so the learned single judge has observed:

".....that Prof. Suresh Dalal is only one of the members of the standing committee of the Sahitya Academy of which Shri Hasubhai Yagnik is the Registrar. Shri Hasubhai Yagnik is not an employee under the direct control and supervision of the standing committee of Sahitya Academy, He is a class I officer serving under the Government. He is in independent charge of administration and financial affairs of the academy. The appointing authority and disciplinary authority of Registrar of Sahitya Academy is the Government and not the Sahitya Academy. Vice Chairman of Academy is required to offer remarks in confidential report of Registrar of Academy. It is not correct to say that Vice Chairman of Academy has to write confidential reports of Registrar of Academy. Simply because in the processing of service record at one stage the papers pass through the Vice Chairman of Academy, who happens to be Professor Suresh Dalal, it cannot be said that Shri Hasubhai Yagnik the Registrar of Academy is under the supervision and control of Prof. Suresh Dalal. "

4. After observing so, the learned single Judge held that the suspicion of bias harboured by the petitioner is not that of a reasonable man. With these findings the learned single Judge summarily dismissed the special civil application. It is against this Order the present letters patent appeal is filed. So Mr. N. J. Mehta, learned counsel appearing for the appellant strenuously contended that from the facts of the case it is clear that any person will get reasonable suspicion regarding the bias of Smt. Vimuben Badheka and Hasubhai Yagnik in selecting the books written by the father-in-law of Smt. Vimuben Badheka and Professor Suresh Dalal. Pressing into service the decisions in the case of Ashok Kumar Yadav and Others Vs. State of Haryana and Others, ; in the case of Manak Lal Vs. Dr. Prem Chand, ; and in the case of Ranjit Thakur Vs. Union of India (UOI) and Others, , the learned counsel appearing for the appellant submitted that the selection of books made by the committee has to be quashed.

5. Mr. N. J. Mehta, learned counsel appearing for the appellant strenuously contended that from the facts of the case it is clear that any person will get reasonable suspicion regarding the bias of Smt. Vimuben Badheka and Hasubhai Yagnik in selecting the books written by the father-in-law of Smt. Vimuben

Badheka and Professor Suresh Dalal. Pressing into service the decisions in the case of Ashok Kumar Yadav and Others Vs. State of Haryana and Others, : Ashok Kumar Yadav and Others Vs. State of Haryana and Others, in the case of Manak Lal v. Dr. Prem Chand, reported in AIR 1987 SC 3286, the learned counsel appearing for the appellant submitted that the selection of books made by the committee has to be quashed.

6. Mr. Pandya and other counsels appearing for the respondents submitted that the books selected are of very high standard and popular; that the selection committee including Shri Hasubhai Yagnik and Smt. Vimuben Badheka acted objectively and had made the selection; and that there cannot be any bias in selecting such a Academy is under the supervision and control reputed and standard children's book. The suspicion of bias, the appellant and others will have, has no basis and it will not appeal to reason on the facts and circumstances of the present case. Further, it is alleged that suspicion must be of that of a reasonable person and not that every suspicion as regards bias will make out a case of bias on the part of the selection committee members.

7. Mr. Ramesh M. Dave, learned counsel appearing for respondent No. 3 contended that the principles of likelihood of bias cannot be made applicable to the facts of this case since this case does not pertain to selection of any candidate to fill up a service -vacancy. It is only in cases where selection of candidates for certain posts are involved, the doctrine of bias becomes important. According to the learned counsel, in other sphere such as selection of books etc., it will not operate with the same vigour as it operates in cases of selection a candidates for certain posts. He further argued that if only a public order is affected the doctrine of bias can be looked into and not in other cases. According to the learned counsel there is no question of affecting the public order as far as the facts of the present case are concerned. He further contended that selection of books is in the realm of mercantile law and in such commercial matters, when especially no financial consideration is involved, on the facts of the present case, the doctrine of bias will not come into play. Finally Mr. Ramesh Dave, learned counsel appearing for respondent No. 3 argued that if at all any books have to be excluded from Selection on the principle of bias, it is those Books written by Professor Suresh Dalal and Shri Gijubhai Badheka and not the other books.

8. The short question that we have to decide in this appeal is as to whether the presence of Shri Hasubhai Yagnik and Smt. Vimuben Badheka has vitiated the selection or not. The Director of Primary Education, the second respondent herein by publishing aft advertisement in Sandesh daily dt.03-01-1988 invited tenders for various items including books of literature for children and other books under the operation blackboard scheme of the State of Gujarat. In pursuance to the said advertisement the appellant and others gave the tenders for the supply of books. The State Government constituted a committee consisting of various members drawn from different walks of life. On 21-01-1988 the tenders were opened and the books were placed before the selection

committee on 02-02-1988. The selection committee after selecting the books placed them before the Director of Education who in turn wrote to those successful tenderers to supply the selected books. Such order was placed by the Director by his letter dt. 20-02-1988. The appellant herein apart from other contentions, challenged the constitution of selection committee on the ground that one Shri Suresh Dalal, Vice Chairman of the Sahitya Academy was financially interested inasmuch as one of the tenderers i.e. respondent No. 8 in the prior special civil application No. 10 13 of 1988 has also offered certain books written by Shri Suresh Dalal. The special civil application No. 1013 of 1988 came up for hearing before a learned single Judge of this High Court on 8-5-1988 and the learned Judge, following the decision in the case of J. Mohapatra and Co. and Another Vs. State of Orissa and Another, came to the conclusion that the selection committee in which Prof. Suresh Dalal was one of its members offends foreplay and justice inasmuch as the books of Professor Suresh Dalal came to be considered in such a selection committee. Finally, the learned single Judge observed that the tenders which are received pursuant to the advertisement dt. 3-1-1988 can be considered by the respondent-government afresh after properly constituting the selection committee in the light of the observations made in the judgment of the Supreme Court in the case of M/s. J. Mohapatra & Co. v. State of Orissa, reported in AIR 1984 SC 157- and made rule absolute accordingly. Subsequent to this, selection committee was reconstituted with- any change in its members, save and except that Professor Suresh Dalai, who was the expert member, was substituted by Shri Hasubhai Yagnik, Professor Suresh Dalai is the Vice Chairman of the Gujarat Sahitya Academy of which Shri Hasubhai Yagnik is, the Registrar, It is the contention of the appellant that Shri Hasubhai Yagnik who is a subordinate, working under Professor Suresh Dalai cannot be a member of the selection committee and any selection made with Shri Hasubhai Yagnik as a member of the selection committee is illegal. Apart from the contention that Shri Hasubhai Yagnik cannot be a member of the committee, it is also alleged that one Smt. Vimuben Badheka cannot be a member of the selection committee inasmuch as the books of her father-in-law by name late Shri Gijubhai Badheka have also been considered and selected. In the special civil application No. 6921 of 1988, the first respondent herein through its Deputy Director, Primary Education has stated that the selection was made purely on merits and was not guided by any extraneous consideration. He has also stated that Shri Hasubhai Yagnik is bound by the directions of the Standing Committee of the Sahitya Academy and not subject to any individual direction of the Vice Chairman Professor Suresh Dalai. It is further stated that Shri Hasubhai Yagnik is an Ex. Offices member of the Academy; that he is a member-secretary of other committees of the academy; that power to grant leave to the Registrar is vested in the standing committee and not in the Chairman or Vice Chairman individually; that Shri Hasubhai Yagnik has to make a self-appraisal of his own work, that Vice Chairman Professor Suresh Dalai has to make remarks on such self-appraisal and that the Reviewing Authority there from is the Secretary, Education Department. From these facts the first respondent in his Affidavit-in-

reply states that Shri Hasubhai Yagnik, who is the Registrar of the Academy, is not the subordinate of the Vice Chairman of the Academy and that the appointing and disciplinary authority for the Registrar is the Government. Hence according to the first respondent, Shri Hasubhai Yagnik is not amenable to the pressure and influence by the Vice Chairman.

9. As regards Smt. Vimuben Badheka, the first respondent In the affidavit-in-reply filed in the special civil application No. 6921 of 1988 has stated as follows:

"I say that the petitioner has raised objection to the appointment of Smt. Vimuben Badheka as a member of the Selection Committee on the ground that she is the daughter of late Shri Gijubhai Badheka, whose four books have been put up for selection in the tender of Gujarat Sahitya Bhavan the respondent No. 4. I say that Sint. Vimuben Badheka is not the daughter of Shri Gijubhai Badheka and she is his daughter-in-law. I say that the respondent No. 3 along with his affidavit dated Keith Oct. 1988 has produced the certificate from M/s. R. R. Sheth and Co. which shows that the copy rights of all the books for children written by Shri Gijubhai Badheka were purchased by M/s. R. R. Sheth and Co. about 40 to 45 years back and no royalty is paid by M/s. R. R. Sheth and Co. to any person including Smt. Vimuben Badheka. I say that in view of this certificate it is very clear that Suit. Vimuben Badheka has no pecuniary interest in selecting the books of Shri Gijubhal Badheka."

10. We have in paragraphs sugars, extracted the observations made by the learned single Judge as regards Smt. Vimuban Badheka and Shri Hasubliail Yagnik. The learned Judge has also observed that inasmuch as in a prior petition such a grievance was not made in respect of the name of Suit. Vimuben Badheka, the appellant cannot be now permitted to take such a plea since he has not taken this objection in the prior special civil application where n the very same Sint. Vimuben Badheka was one of the members of its selection committee. With these observations the learned single Judge has dismissed the special civil application. It is as against this the present letters patent appeal has been filed.

11. It is clear from the above said facts that Professor Suresh Dalai who was originally in the selection committee had some of his books for the purpose of selection. His presence in the selection committee and the selection thereof was quashed by the learned single Judge in special civil application No. 1013 of 1988. Subsequently the selection committee was reconstituted with Shri Hasubhai Yagnik in the place of Professor Suresh Dalai. The facts which we have quoted in paragraph sugars clearly reveal that Shri Hasubhai Yagnik is the Registrar in the Gujarat Sahitya Acaderny of which Prof. Suresh Dalai is the Vice Chairman. It is also noticed that as Vice Chairman of the Academy Prof. Dalai has to offer his remarks on the annual confidential report on the self-appraisal made by the Registrar.

12. As far as Vimuben Badheka is concerned, the books of her father-in-law were

among the books selected. Mr. Pandya, learned Government Pleader contended that as far as the books of Prof. Suresh Dalal and late Shri Gijubhai Badheka are concerned, nobody can dispute the quality and contents of the said books. Further, according to the learned Government Pleader, the members of the Selection Committee including Shri Hasubhai Yagnik and Smt. Viniuben Badheka are qualified and independent judges and they would have acted only objectively in selecting the books. Bias consists of one being a judge in his own case and also the conflict between the duty and interest. Mr. Pandya states that there is absolutely no question of one being the judge of his own case nor any conflict between the duty and the interest exists inasmuch as the books selected are of very high standard and quality.

13. Mr. N. J. Mehta, learned counsel appearing for the appellant states that the question that has to be decided in this case is the doctrine of bias and that once it is established that a party has reasonable suspicion regarding the objectivity of the members of the committee in selecting the books, it is enough to quash the selection in which those members were present.

14. In the above said background and discussion we can now usefully refer to certain decisions of the Supreme Court which deals with the question of bias.

15. In the case of Ashok Kumar Yadav and Others Vs. State of Haryana and Others, : Ashok Kumar Yadav and Others Vs. State of Haryana and Others, , the Supreme Court observed (at pp. 468-469 of A I R) :

"If a selection committee is constituted for the purpose of selecting candidates on merits and one of the members of the selection committee is closely related to a candidate appearing for the selection, it would not be enough for such member merely to withdraw from participation in the interview of the candidate related to him but he must withdraw altogether from the entire selection process and ask the authorities to nominate another person in his place on the selection committee, because otherwise all the selections made would be vitiated on account of reasonable likelihood of bias affecting the process of selection. But if the selection is being made not by any selection committee constituted for that purpose but by the PSC, a constitutional authority set up under Art. 315 or 316 and a close relative of a member of the PSC is appearing for interview, then the related member need not withdraw from the entire selection process. When two or more members of a Public Service Commission are holding a viva voce examination, they are functioning not as individuals but as the Public Service Commission. However, the related member must withdraw from participation in the interview of that candidate and must not take part in any discussion in regard to the merits of that candidate and even the marks or credits given to that candidate should not be disclosed to him."

16. In the case of Ranjit Thakur Vs. Union of India (UOI) and Others, the Supreme Court observed (at pp. 2390-91 of AIR):

"As to the tests of the likelihood of bias what is relevant is the reasonableness of

the apprehension in that regard in the mind of the party. The proper approach for the Judge is not to look at his own mind and ask himself, however, honestly, "am I biased?" but to look at the mind of the party before him. Thus tested the conclusion becomes inescapable that, having regard to the antecedent events, the participation of officer in the Martial rendered the proceedings coram non-judice.

17. In the case of Manak Lal Vs. Dr. Prem Chand, the Supreme Court had occasion to consider the advisability of having one member, who in the opinion of the appellant, would have bias. In this decision one of the members of the Bar Council Tribunal happened to have appeared at an interlocutory stage as senior in a case pertaining to the complainant against the appellant. The appellant, an advocate, is sought to be tried for professional misconduct. No doubt, in that case the Supreme Court on the ground of waiver did not interfere with the decision of the Tribunal. Nevertheless, the Supreme Court had categorically observed (at p. 430 of AIR):

"It is not Shri Daphtary's case that Shri Chhangani actually had a bias against the appellant and that the said bias was responsible for the final report made against the appellant. Indeed it is unnecessary for Shri Daphtary to advance such an argument. If Shri Chhangani was disqualified from working as a member of the Tribunal by reason of the fact that he had appeared for Dr. Harem Chand in the criminal proceedings under S. 145 in question, then it would not be necessary for Shri Daphtary to prove that Shri Chhangani improperly influenced the final decision of the tribunal. Actual proof of prejudice in such cases may make the appellant's case stronger but such proof is not necessary in order that the appellant should effectively raise the argument that the tribunal was not properly constituted."

18. From this decision it is clear that there is no need for actual proof of prejudice but it is enough that there is a reasonable suspicion in the minds of those who are aggrieved by the presence of a particular individual in the committee. We lay stress upon the reasonable suspicion since every suspicion cannot be considered as reasonable, Hence it depends upon the facts of each case in a given circumstances. Nothing is to be done which creates even a suspicion that there has been an improper interference in the Court of justice. Hence we have to see whether there is any reasonable suspicion by the party concerned which would spell out bias on the part of some members of the committee in the selection.

19. In the case of J. Mohapatra and Co. and Another Vs. State of Orissa and Another, the Supreme Court has categorically held that it is not actual bias in favour of the author-member that is material but the possibility of such bias. Keeping in mind the principles laid down by the Supreme Court in the above said decision we can find out as to whether there will be a reasonable apprehension in the mind of the appellant as regards the bias in respect of the two of the members stated above. In this case there is no dispute that 4 books of Shri

Suresh Dalal and some books of late Shri Gijubhai Badheka have been selected. As far as Gijubhai Badheka is concerned, it is an admitted fact that his daughter-in-law Smt. Vimuben Badheka is one of the members of the selection committee. No doubt, her presence was not agitated in the prior special civil application No. 1013 of 1988 which has been quashed by the learned single Judge of this Court. After quashing of the special civil application No. 1013 of 1988 the matter was at large since a new committee was formed. The formation of the new committee was challenged in the special civil application No. 6921 of 1988 against which the present letters patent appeal arises. When the matter is at large and the constitution of the committee is being questioned, there cannot be any restrictions to question the inclusion of a member in the committee, when especially the appellant pleads that he was not aware of the relationship between Smt. Vimuben Badheka and Shri Gijubhai Badheka until recently. When the books of the father-in-law are being placed for selection a reasonable apprehension will definitely arise in the minds of those persons who compete in the selection regarding the bias the daughter-in-law will have in respect of the selection of the books of her father-in-law. However much the father-in-law of Smt. Vimuben Badheka is a great author and the books are of standard books, the fact that there will be reasonable apprehension of bias in the minds of party aggrieved cannot be ruled out.

20. As regards the bias of Shri Hasubhai Yagnik, it is really surprising as to why the committee constituted subsequent to the quashing of the committee by the learned single Judge of this Court in special civil application No. 1013 of 1988 has included Shri Hasubhai Yagnik who is the Registrar of the Sahitya Academy of which Prof. Suresh Dalal is the Vice Chairman. We have already extracted in paragraph sugars as to how the self-appraisal of the Registrar requires the remarks of the Vice Chairman, Professor Suresh Dalai is the reporting authority on annual confidential report before it is reviewed by the Government. When especially in the State of Gujarat the authorities concerned can find persons who are unconnected with those whose books are selected, it is surprising as to why they have selected the Registrar of the Sahitya Academy, when especially the Vice Chairman Prof. Suresh Dalal's books are being selected and when especially the inclusion of Prof. Suresh Dalai in the committee on a prior occasion was litigated and that constitution of the committee was quashed by this Court.

21. In the case of D.K. Khanna Vs. Union of India (UOI) and Others, , a Bench of that High Court had occasion to consider the doctrine of bias in the matter of preparing select list for the purpose of appointment by promotion to the Indian Administrative Service and the bench observed (at p. 35 of AIR):

"Bias has been classified into different categories. We are concerned here with personal bias. Personal bias may arise from personal hostility to one party or from personal friendship or family relationship, the challenge to the proceeding need only establish so close a degree of relationship as to give rise to the reasonable likelihood of the Judge espousing the cause as his own."

22. In *A.K. Kraipak and Others Vs. Union of India (UOI) and Others*, , the Supreme Court, while considering the doctrine of bias held (at p. 155 of AIR):

"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. 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....."

23. In view of the decisions cited above we are of the view that the doctrine of bias operates equally whether it is a selection of candidate for a post or selection of certain books for acceptance. The test is not whether in fact a bias affected the judgment. The test always is and must be whether a litigant could reasonably apprehend that a bias attributable to a member of the Tribunal or a body might have operated against him in the final decision of the Tribunal.

24. We may now consider the contention to the effect that if at all there is any bias on the part of the abovesaid two members, the books belonging to Professor Suresh Dalai and Shri Gijubhai Badheka alone should be rejected and not the books written by other authors. It is contended that inasmuch as there is no financial interest in respect of the abovesaid two members in the selection of books, the theory of quid pro quo in such selection will not arise in the present case. If that be so, it is argued, that the books belonging to the abovesaid authors only have to be rejected and not the other books. We are unable to appreciate this argument. Once the question of bias is spell out in respect of the two members of the selection committee, we do not know as to the extent to which such biased minds would have appreciated and selected certain books and rejected certain other books. In the case of *J. Mohapatra and Co. and Another Vs. State of Orissa and Another*, , the Supreme Court dealt with selection of books for school and College Libraries, Adverting to the facts that only one of its members was biased and as to whether the same would have affected the proper selection of the books the Supreme Court observed (at p. 1576 of AIR):

"The State Government would normally be guided by the Assessment Sub-Committee. Further to say that such author-member is only one of the members of the Assessment Sub-committee is to overlook the fact that the author-member can subtly influence the minds of the other members against selecting books by other authors in preference to his own. It can also be that books by some of the other members may also have been submitted for selection and there can be between them a quid pro quo or, in other words, you see that my book is selected and in return I will do the same for you. In either case, when a book of an author-member comes up for consideration, the other members would feel themselves embarrassed in frankly discussing its merits. Such author-member may also be a person holding a high official position whom the other members may not want to displease. It can be that the other members may not be influenced by the fact that the book which they are considering for approval

was written by one of their members. Whether they were so influenced or not is, however, a matter impossible to determine. It is not, therefore, the actual bias in favour of the author-member that is material but the possibility of such bias. All these considerations require that an author-member should not be a member of any such committee or sub-committee."

25. In view of the abovesaid observations by the Supreme Court we can just look into the facts of the present case. There may not be direct financial advantage for the abovesaid two members who find place in the selection committee. But the personal interest is made out from the discussion we have made above. The decisions clearly lay down that it is not the personal bias that counts but the possibility of such bias is enough to strike down any selection. More than the financial interest the personal interest of the party will have greater force. If such parties are present in the selection committee, there will be an indirect influence upon the other members to frankly discuss the superiority of other looks in preference to the books written by Prof. Suresh Dalal and Shri Gijubhai Badheka. If these two members were not there, we do not know as to whether the committee would have rejected certain books preferring the books written by Prof. Suresh Dalal and Shri Gijubhai Badheka. The subtle way in which the presence of interested persons at least in some books influence the mind of the other members cannot be ruled out on the facts and circumstances of the present case. That is why the learned single Judge of this High Court, when the very same selection came up before him on prior accession, quashed the whole selection.

26. In the case of D.K. Khanna Vs. Union of India (UOI) and Others, repelling the contention as to partiality quashing of the selection observed (at p. 37 of AIR):

"It is next contended by the respondents that the entire Select List does not become invalid but only the inclusion of Shri H. S. Negi in it. The contention cannot be accepted. We do not know how for the opinions expressed against the petitioners and Shri S. R. Mahantan operated incidentally to the benefit of Shri Swarupa Nand. Then, with Shri H. S. Negi as a candidate, according to the considerations of law to which we have adverted Shri B. C. Negi would not have been a member of the Committee at all. And if that had been so, it is not possible to say what a differently constituted committee might have thought of the merit and suitability of the officers whose names were under consideration, including those who were actually selected. The entire Select List is thrown into doubt, and it is not possible for a Court to predict, nor indeed is it open to it to do so who would have been selected and who would not."

27. Thus, on the facts and circumstances of this case is not too much to infer that there will be a reasonable apprehension in the mind of the appellant to suspect bias on the part of Shri Hasubhai Yagnik and Smt. Vimuben Badheka. No doubt, it is true that it is not in every case of suspicion this Court interferes and quashes the Constitution of a committee.

28. The facts discussed above clearly reveal the reasonableness of the apprehension in the minds of the party as regards the bias of the above said two persons. The principles enunciated by the Supreme Court regarding bias has been clearly made out on the facts and circumstances of the present case. In these circumstances and following the principles laid down by the Supreme Court which we have extracted above, we allow the letters patent appeal by setting aside the judgment of the learned Single Judge. The result being the selection of the books by the selection committee and the decision of awarding the contracts to respondents Nos. 3 to 8 for the supply of children's books worth about Rs. 46 lacs is quashed. There will be no order as to costs. We make it clear that in so far as the action of the respondent-state Government in inviting the tenders by public advertisement is concerned, it is not under challenge in this petition and therefore that action of the respondent-state government cannot be said to be illegal. Hence all the tenders which are received pursuant to the advertisement dt. 33-88 can be considered by the respondent state government afresh after properly constituting the Selection Committee in the light of the observations made in this judgment.

29. Appeal allowed.