
(1995) 03 GAU CK 0020
In the Gauhati High Court
Case No : Civil Rule No. 54 of 1995

Sapam Nishikanta Singh

APPELLANT

Vs

State of Manipur and Others

RESPONDENT

Date of Decision : 31-03-1995

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : AIR 1995 Guw 117

Hon'ble Judges : H.K. Sema, J

Bench : Single Bench

Advocate : R.K. Sanajaoba Singh and I. Lalit Kumar Singh, for the Appellant; T. Nanda Kumar Singh and A. Jagat Chandra, A.G.A., for the Respondent

Judgement

H.K. Sema, J.—These two writ petitions arise out of common question of facts and law and as such they are being disposed of by this common judgment.

2. Facts given rise to filing of the writ petitions may be recited strictly for the purpose of disposal of these petitions. The State level Text Book Committee has been reconstituted comprises of 23 members by an order dated 22-10-93. The Government of Manipur also constituted subject wise subcommittees to review the curricula and syllabi for classes II to VIII by an order dated 13-1-94. The Sub-Committee submitted revised Curricula and Syllabi. In the meantime, one Shri L. Raghumani Singh, Head of Department of English D. M. College of Arts and Commerce made comments and suggestions for improvement of the revised curriculum and Syllabus. The State level Committee held an emergency meeting on 18-6-94 and examined the revised English curriculum and syllabus in the light of suggestions made by Shri Raghumani Singh and accepted the suggestions of the curriculum and syllabus. Thereafter, the Director State Council Educational Research and Training (hereinafter SCERT) invite a draft manuscripts of Text Books covering the syllabus from intending writers/publishers under the following terms and conditions:

"(a) Three months time be given for preparation of the draft manuscripts and the

last date of submission of the manuscripts be 30th September, 1994;

(b) Three draft manuscripts for each subject Text Book be submitted;

(c) A non-refundable submission fee of Rs. 500 / - in the form of Bank draft drawn on any Scheduled Bank of India be submitted in favour of Director, SCERT for payment of evaluation-fees to three evaluators of each manuscripts for Classes II-VIII;

(d) Successful publisher shall have to publish the book/books in strict conformity with the terms and conditions laid down by the Government."

3. The Government of Manipur approved the proposal of the Director, SCERT by a letter dated 23-6-94. Consequently, the curriculum and syllabus of Classes II to VIII of the Government schools have been revised and improved and the subject of studies have been categorised. In the present Civil Rule, namely; Civil Rule No. 54/95, the dispute is with regard to the English subject for Classes II to VIII.

4. The Director of SCERT by its tender notice dated 24th June, 1994 invites draft Text Books on English for Classes II to VIII based on the revised English Curriculum and Syllabus from publishers/writers for prescription from 1995/1996 Session. Pursuant to the aforesaid tender, petitioner submitted three draft manuscript copies for the Text Books for Classes II to VIII for English course. Other firms including the respondent No. 4 also submitted manuscripts. Thereafter, a panel of evaluators for selection of Text Books for English was constituted. The manuscript books and the publishers were coded for the purpose of evaluation. The evaluators submitted the assessment sheet and the State level Text Book Committee held its meeting on 9-12-94. In the minutes of the State level Text Book Committees held on 9-12-94, it was observed as under :

"Some of the Committee members expressed their reservation about high marking accorded by 1 (one) particular evaluator."

5. Despite of the aforesaid observation, the State level Text Book Committee has recommended the books of the 4th respondent for prescription as Text Books for English language.

6. At the time of hearing of these writ petitions it was admitted by counsel of both sides that evaluators were;

(a) Shri Ch. Mohendro Singh

(b) Shri L. Sidharaja Singh

(c) Shri Nobinchandra Singh.

7. In the meantime, a complaint dated 15-12-94 has been filed by one Shri Ch. Radhakanta addressed to Commissioner and Secretary, Education, stating inter alia that Shri Mohendro Singh, one of the evaluators was related to the proprietor of the firm "The Public Book Stall Imphal" (Respondent No. 4 herein).

The relation of Shri Mohendro Singh (evaluator) with the proprietor of the firm "The Public Book Stall Imphal" being Shri Mohendro Singh's sister-in-law is the sister of the wife of the proprietor of the firm. It was further alleged in the complaint that Shri Mohendro Singh (evaluator) and his sister-in-law have since long before been living under the same roof, and a close tie between reviewer and the publisher cannot be ruled out.

8. In this writ proceeding, the impugned orders are challenged on the ground of bias. Mr. R.K. Sanajaoba Singh learned counsel for the petitioner has strenuously urged that the impugned orders are being biased and bad inasmuch as the evaluation of English Text Books in favour of the respondent No. 4 has been influenced by the presence of Shri Ch. Mohendro Singh who is related to the respondent No. 4 through his sister-in-law. On the other hand, it is submitted by Mr. T. Nanda Kumar learned counsel for the respondent that Shri Mohendro Singh one of the evaluators of the Text Book was not closely related to the respondent No. 4, but it was distantly related and no allegation of bias could have been attributed to him.

9. Counter on behalf of the respondent No. 4 has been filed. The respondent No. 4 is the Proprietor of Public Book stall in favour of whom the impugned order has been passed, placing the English Text Book for Classes IV and V to be supplied for the academic session, 1995/1996. The respondent No. 4 in his counter did not deny the relationship with Shri Ch. Mohendro Singh one of the evaluators of the English Text Books. The respondent did not deny that Ch. Mohendro Singh's (Evaluator) sister-in-law is the sister of the wife of the respondent No. 4, the Proprietor of Public Book Stall.

10. Mr. T. Nanda Kumar has urged that the relation between the respondent No. 4 and Shri Ch. Mohendro Singh was distantly related and further there is no business interest and there is no business connection between the respondent No. 4 and Ch. Mohendro Singh. Counsel, therefore, submits that no bias can be said to have been committed by Shri Ch. Mohendro Singh.

11. In this connection, counsel has referred to the decision of the Apex Court in Union of India (UOI) and Others Vs. Atic Industries Ltd., In the said case, the Apex Court had occasioned to deal with the interpretation of Section 4 of the Central Excises and Salt Act, 1944. While interpreting the definition of related "person" occurring u/s 4 of the Act, the Apex Court had held that;

"the person who is sought to be branded as a "related person" must be a person who is so associated with the assessee that they have interest, directly or indirectly, in the business of each other."

The ratio of its decision is of no help to the petitioner's case, because the facts of this case are not applicable in the case in hand inasmuch as in the said case, the Apex Court was examining the liability of payments of tax by the assessee under the Central Excises and Salt Act, 1944.

12. Next it is contended by Mr. T. Nanda Kumar that the Text Book for English language has been recommended by an expert body and by its State level committee of Text Book, and as such, this Court has a limited scope to interfere with the selection of the Text Book by an expert body. In this connection, he has referred to a decision of the Apex Court rendered in Union of India and others Vs. S.L. Dutta and another, It was pointed out by the Apex Court that;

"The Court should rarely interfere where the question of validity of a particular policy is in question and all the more so where considerable materials in the fixing of policy are of a highly technical or scientific nature."

13. Counsel has also cited a decision rendered by the Apex Court in Dalpat Abasaheb Solunke and Others Vs. Dr. B.S. Mahajan and Others, It was pointed out by the Apex Court that:

"It is not the function of the Court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the candidates."

It was further pointed out:

"Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The Court has no such expertise."

It was further pointed out by the Apex Court in the same paragraph as under:

"The decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the Constitution of the committee or its procedure vitiating the selection, or proved mala fides affecting the selection."

14. The aforesaid decision of the Apex Court is of no help to the petitioner's case, because the allegation in this writ proceeding is of bias. In the instant writ proceeding, Shri Ch. Mohendro Singh, one of the evaluators of the Text Book is related to the respondent No. 4 has not been denied. The relationship being that, Shri Mohendro Singh's sister-in-law is the sister of the wife of the proprietor of the firm in whose favour the text books has been recommended by the evaluators.

15. By now it is established principle of law that no man can be judged in his own cause, and that if there is a reasonable likelihood of bias it is in accordance of natural justice and common sense that justice is likely to be so biased.

16. In A.K. Kraipak and Others Vs. Union of India (UOI) and Others, the Apex Court had held in para 15 of its judgment as under :

"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. We agree with the learned Attorney-General that a mere suspicion of bias is not sufficient.

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:

"It was in the interest of Nagishbund to keep out his rivals in order to secure his position from further challenge. Naturally he was also interested in safeguarding his position while preparing the list of selected candidates."

17. In *Ashok Kumar Yadav and Others Vs. State of Haryana and Others*, it was pointed out by the Apex Court in para 16 of its judgment as under :

"We agree with the petitioners that it is one of the fundamental principles of our jurisprudence that no man can be a Judge in his own cause and that if there is a reasonable likelihood of bias it is "in accordance with natural justice and common sense that the justice likely to be so biased should be incapacitated from sitting. The question is not whether the Judge is actually biased or in fact decides partially, but whether there is a real likelihood of bias. What is objectionable in such a case is not that the decision is actually tainted with bias but that the circumstances are such as to create a reasonable apprehension in the mind of others that there is a likelihood of bias affecting the decision. The basic principle underlying this rule is that justice must not only be done but must also appear to be done and this rule has received wide recognition in several decisions of this Court. It is also important to note that this rule is not confined to cases where judicial power *stricto sensu* is exercised. It is appropriately extended to all cases where an independent mind has to be applied to arrive at a fair and just decision between the rival claims of the parties. Justice is not the function of the Courts alone: it is also the duty of all those who are expected to decide fairly between contending parties. The strict standards applied to authorities exercising judicial power are being increasingly applied to administrative bodies, for it is vital to the maintenance of the rule of law in a welfare State where the jurisdiction of administrative bodies is increasing at a rapid pace that the instrumentalities of the State should discharge their functions in a fair and just manner."

18. Referring to the facts of the case, there is no dispute that Shri Ch. Mohendro Singh, one of the evaluators of English Text Book was related to the respondent No. 4, in whose favour the impugned order has been issued. The State level Text Book Committee in its meeting held on 9-12-94 observed as under:--

"Some of the committee members expressed their reservation about high making accorded by-one particular evaluator."

19. It is submitted by Mr. Nanda Kumar that the evaluators who has accorded high marks to respondent No. 4 is not Ch. Mohendro Singh and, therefore, there is no question of bias. May be that the Ch. Mohendro Singh himself has not accorded high marks, but being related to respondent No. 4, the likelihood of the influencing other evaluators to accord high marks in favour of respondent No. 4 cannot be ruled out. Therefore, there is a reasonable ground for believing that he was likely to have been biased.

20. Keeping in view of the aforestated facts and law, the impugned order dated 3rd February, 1995 is hereby quashed and set aside with the following directions:--

(1) The English Text Book for Classes II, III, IV, VII and VIII for the academic session 1995/1996 shall continue as recommended by the Director SCERT by its letter dated 10-1-95. However, for the academic session 1996/ 1997, the Text Book for English language for Classes II to VIII shall be re-evaluated by another set of reviewers. It is made clear that the evahiators who has participated for reviewing of Text Book for the academic session 1995/1996 shall not be included as evaluators, this would mean another set of evaluators shall be constituted.

(2) The existing Text Book in English language for Classes IV and V shall continue for the academic session 1995/1996. However, for Class IV, the Code No. IV-CB/ WB-DA and for Class V, Code No. V/CB-WB/ OX as recommended by the Director of SCERT in its letter dated 27th January, 1995 shall be retained as Tex Book for the session 1995/1996 only.

21. In Civil Rule No. 103/95, the petitioner has assailed the notice dated 24th June, 1994 inviting draft Text Books in English language for Classes II to VIII from publishers/writers for the session 1995/1996. The ground for challenge of notice is that, no detail information and no criteria for method and process of selection was laid down in the said notice. It is submitted by Mr. Lalit Kumar that since no criteria has been laid down, the respondent has applied pick and choose policy. This submission has no force. From the notice itself, it was stipulated that the detail information may be had from the Director SCERT on or before the 15th July, 1994. Therefore, this petition is meritless and it is accordingly dismissed.

The neat result is that, Civil Rule No. 54/ 95 is allowed. Civil Rule No. 103/95 is dismissed. Parties are asked to bear their own costs.