

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of Decision: April 27th, 2015

1. Civil Writ Petition No.3788 of 2011

Lav Kumar

...Petitioner

Versus

The State of Haryana and others

...Respondents

2. Civil Writ Petition No.2533 of 2011

Om Parkash

...Petitioner

Versus

State of Haryana and others

...Respondents

3. Civil Writ Petition No.4380 of 2011

Parvesh Kumar Solanki

...Petitioner

Versus

The State of Haryana and others

...Respondents

4. Civil Writ Petition No.4374 of 2011

Sonia

...Petitioner

Versus

The State of Haryana and others

...Respondents

5. Civil Writ Petition No.7573 of 2011

Manish Malik

...Petitioner

Versus

State of Haryana and others

...Respondents

6. Civil Writ Petition No.4260 of 2011

Rajeshwar Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

7. Civil Writ Petition No.17413 of 2012

Sushil Malik

...Petitioner

Versus

The State of Haryana and others

...Respondents

8. Civil Writ Petition No.6920 of 2011

Duli Chand

...Petitioner

Versus

The State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. D.S. Patwalia, Senior Advocate with
Mr. Kannan Malik, Advocate,
Ms. Anu Kapur Chatrath, Senior Advocate with
Ms. Harmanpreet Kaur, Advocate
Mr. Gurpreet Jayia, Advocate for
Mr. Jagdish Manchanda, Advocate and
Mr. Deepak Balyan, Advocate
for the petitioner(s).

Mr. Vikram Singh, Advocate
for respondent No.4.

Mr. N.S. Shekhawat, Advocate
for respondent No.5 in CWP No.3788 of 2011.

Mr. Birender Singh Rana, Senior Advocate with
Mr. Rajinder Paul, Advocate
for respondent No.5 in CWP No.4260 of 2011.

Mr. R.P. Bhandari, Advocate

Mr. Sanchit Punia, Advocate
for respondents No.17 and 43 in CWP No.4374 of 2011.

Mr. Samrat Malik, Advocate
for respondent No.10 in CWP No.17413 of 2012.

Mr. C.S. Singh, Advocate
for respondent No.22 in CWP No.2533 of 2011.

Mr. Aman Bahri, Advocate
for respondent No.91 in CWP No.3788 of 2011.

Mr. Karan Sharma, Assistant Advocate General, Haryana.

Mr. H.N. Mehtani, Advocate
for respondents No.20 and 21-HPSC.

AUGUSTINE GEORGE MASI, J.

By this order, I propose to dispose of eight writ petitions i.e.
Civil Writ Petition Nos.3788, 2533, 4380, 4374, 7573, 4260, 6920 of 2011
and 17413 of 2012.

2. In this bunch of writ petitions, challenge is to the selection and
appointment made to the Haryana Civil Services (Executive Branch) and
other Allied Services (hereinafter referred to as HCS) in pursuance to
Advertisement No.6 dated 04.01.2009 issued by the Haryana Public Service
Commission-respondent No.2 (hereinafter referred to as Commission).

3. As per the consent given by the counsel for the parties
Civil Writ Petition No.3788 of 2011 titled as ***Lav Kumar Versus The State
of Haryana and others***, was treated as a lead case and the arguments were
addressed by the counsel for the parties in accordance to and with reference
to the pleadings in this case.

4. Petitioners, in these writ petitions, applied in pursuance to the above referred to advertisement for filling up 184 posts of the HCS and the Preliminary Examination-2009 was held on 26.04.2009. The result was declared on 02.05.2009 by the Commission, which was published in the newspapers on the next day. In the said published result, it was mentioned that the Main Written Examination would be held from 22.08.2009 to 03.09.2009 followed by the personality test/viva voce to be held from 13.12.2010 to 30.12.2010. Last date for submission of the applications for the Main Examination-2009 was 25.05.2009.

5. Petitioners came to know that for preparation of the result of HCS Preliminary Examination, the evaluation of the OMR sheets was done by an automated process in the Union Territory Guest House, Chandigarh, ignoring the fact that it was a confidential work. Conduct and preparation of the result thereof was the sole responsibility of the Secretary of the Commission and the Chairman and the Members of the Commission were not supposed to be associated with the secrecy of the Written Examination process. There was no reason as to why the process of scanning and evaluation of the OMR sheets was being done in the U.T. Guest House, when facilities are available in the office of the Commission. Petitioners, therefore, doubt that there was tampering and frequent manipulations in the evaluation process of the OMR sheets by the Chairman/Members of the Commission for favouring certain candidates, which resulted in the mechanical error in the automated checking process and, therefore, 22 candidates were subsequently permitted to take part in the Main Written Examination.

6. On 26.11.2010, the result of the HCS Main Written

Examination was declared by the Commission of candidates, three times the number of posts advertised. As scheduled, the interviews were held from 13.12.2010 to 30.12.2010. The Chairman and four Members of the Commission conducted the interviews without including any subject expert in the Interview Committee. This was done, as per the petitioners, with an intention to manipulate in the preparation of the final result in such a manner that their own relatives/wards, who had participated in the selection could ultimately be included in the select list. On 22.12.2010, a report was published in the newspaper 'Aaj Samaj', giving a list of 15 candidates, who were going to be finally selected, which was much prior to the interviews being over and the same was to a great extent found to be correct when the result was declared by the Commission on 04.01.2011, as ten candidates named in the newspaper report stood selected. Further shocking to the petitioners was that these candidates have been awarded exceptionally high marks in the interview. This was again published in 'The Tribune' dated 08.01.2011.

7. Petitioners alleged that the marks of the candidates in the Written Examination were disclosed to the Interview Committee prior to the interview and, therefore, the marks were awarded in the interview in such a manner that the candidates, who were to be favoured, were given higher marks in the interview, irrespective of their marks in the Written Examination vis-a-vis the candidates, who had been given lower marks intentionally although they had scored higher marks in the Written Examination. This pattern is sought to be demonstrated in the writ petition by highlighting the marks obtained by the candidates in the Written Examination and the marks obtained in the interview by such candidates in

paras 19 to 22 of this writ petition. It has further been highlighted in para 21 that the candidates, whose selection has been manipulated by giving higher marks in the interview, who had comparatively lower marks in the Written Examination, were having relations with various influential persons. Names of three of the candidates, who have been selected and their relation with the Chairman/Members of the Commission have also been mentioned therein. Allegations have been made that the Chairman/Members participated in the interview when their relatives were also participating therein. It has also been stated that even if they recused themselves at the time of interview of that candidate, it would have in any case influence over the other Members of the Commission in favour of the candidate, who is related to them. They should have abstained altogether from the selection process itself instead at the time of interview of those three candidates only. On the basis of these allegations, it has been asserted that the selection and the process adopted by the Commission is illegal, biased, *mala fide*, arbitrary and violative of principles of natural justice, being contrary to the principles as laid down under Articles 14 and 16 of the Constitution of India, the result whereof should be quashing of the selection and appointment of the candidates and holding of fresh selection.

8. In response to the allegations made in the writ petition, reply has been filed by the Chairman/Members of the Commission in their individual capacities, wherein they have denied the allegations of *mala fide*, favouritism, influence or illegal methods being adopted during the process of selection of the candidates to the HCS-2009. It has been stated that they had intimated in writing to the Secretary of the Commission about the participation of their relatives in the process of selection and had at the time

of interview recused from the Interview Committee and not participated at that time. They withdrew from the panel of Interview Committee as and when their respective relatives came for interview/viva voce. It is also asserted that allegation that the interview at times was being conducted by two or three of the Members of the Commission is incorrect and in the case of the relatives of the Members, all the five Members have awarded the marks, in fact only four Members at that instance had awarded the marks. It has further been stated that they were not aware of the marks obtained by the candidates in the Main Written Examination at the time of interview and, therefore, there is no question of awarding marks in a manner, which would have an impact on the selection process that some of the candidates are benefited. It is asserted that marks were awarded strictly on the basis of their performance in the interview.

9. A detailed reply has been filed by the Secretary of the Commission, wherein it has been pointed out as to what the exigencies were for keeping the venue in the U.T. Guest House for scanning/evaluation of the OMR sheets. An explanation to this has been given by the respondent-Commission by asserting that the office of the Commission in Sector 4, Panchkula is frequently visited by the candidates etc., to collect application form of various posts, advertised by it from time to time, for submitting application forms and making inquiries etc. Further, 40,000 OMR sheets of the HCS Preliminary Examination were to be scanned and evaluated, which was a time consuming and lengthy process, which would take two to three days. To maintain the secrecy and for avoiding any interference from any visitor during the aforesaid process of scanning and evaluation, a decision was taken to get this process done in the Union Territory Guest House,

Chandigarh. Presence of the Chairman and the Members of the Commission, in any case would not affect the secrecy of the process in any manner and in this process, no interference was done by the Chairman or the Members of the Commission as they were merely present there to see that the process was duly completed fairly and transparently.

10. It has been submitted that the work related to the conduct of examination and preparing the result thereof, is the responsibility of the Secretary of the Commission and the whole system of evaluation of the OMR sheets is precise and accurate and was not done on the instructions of the Acting Chairman or the Members of the Commission and none of them was associated in the said process. They had stayed in the U.T. Guest House merely to ensure complete transparency and fairness in the evaluation of the OMR sheets and to ensure that the computers etc. used by the agency for evaluation/scanning of OMR sheets had not already been programmed in advance, which may lead to the manipulation of the result in any manner.

11. Sai Data Processing Agency, New Delhi, was engaged by the Commission for scanning and evaluation of the OMR sheets, which was done by automated process. An independent expert in Information Technology in I.T.E. Governance and Project Management Consultant, New Delhi, was also associated. On the basis of the communication received on 22.05.2009 from the engaged agency, pointing out therein that while crosschecking the data at the time of final sealing of the processed record/result, it appeared that there was identical type of jumping/non-lifting of the responses/answers in 395 OMR sheets (out of total 40,000 OMR sheets), which can be a mechanical fault, it was advised that these 395 OMR sheets be reprocessed afresh to ascertain the correctness of the result.

The Commission was, therefore, requested to hand over these sheets for reprocessing. The matter was put up before the Commission which took cognizance of the report and a conscious decision was taken on 22.05.2009 that 395 OMR sheets be reprocessed, so that no prejudice is caused to any of the candidate. The OMR sheets were sent to the agency, who on reprocessing, conveyed vide letter dated 24.05.2009 the revised merit order of 223 candidates out of 395 OMR sheets reprocessed category wise. It was stated that only 223 sheets were found to be effected by mechanical fault and rest of the OMR sheets were correct as per the attempt of the candidates. On the basis of the said revised result, it was found that without changing the cut off marks, 16 candidates of the General Category, 1 in the Ex-servicemen Category and 5 in the Scheduled Caste Category, totaling 22 candidates qualified for the HCS Main Examination. The result was put on the notice board on 01.06.2009. In pursuance to this and as per the request of many other candidates, a Public Notice dated 13.06.2009 was issued by the Commission stating therein that candidates, who had not applied for the HCS Main Examination, may apply on or before 18.06.2009.

12. As regards the allegation about not associating or having an expert member in the composition of the selection committee, it has been explained that the selection was being carried out under the Haryana Civil Services (Executive Branch) and Allied Services Rules, 2008 (hereinafter referred to as the 2008 Rules). Under these Rules, there is no provision for associating any expert while holding the interviews of the candidates for selection to HCS In none of the selections, which have been carried out by the Commission earlier also, an expert has been associated while holding the interview. It has been further stated that the Acting Chairman and four

Members of the Commission have outstanding knowledge in various subjects and, therefore, were as per the provisions of the Constitution, competent to be a part of the Interview Committee and hold the interviews.

13. As regards the allegation that the Members of the Commission were informed of the marks obtained by each of the candidates in the Written Examination, prior to the interviews, the same is denied. In this process of selection, the time tested and well established past practice regarding confidential work of State Civil Services Examination was followed and it was resolved by the Commission that the Secretary of the Commission would undertake all process and procedure of examination including confidential work and others works of this examination. He shall also be the custodian of the strong room and of its operation and of confidential record. The custody of the strong room shall be under one lock key system under the hand of the Secretary of the Commission.

14. After the completion of the Main Written Examination, a 'key' was prepared by the Secretary of the Commission containing the real Roll Numbers with corresponding fictitious Roll Numbers. The clipping on the right side of the answer sheets containing the real Roll Numbers were removed and the corresponding fictitious Roll Numbers were allocated thereon. The key was kept by the Secretary in a sealed cover under lock and key. The result was prepared on the basis of the award list received by the examiners with fictitious Roll Numbers to the extent of three times the advertised posts and the same was put before the Commission with these fictitious Roll Numbers in order of merit making the candidate eligible for viva voce. The said result was approved by the commission on 21.09.2010.

Thereafter the Secretary of the Commission re-converted these fictitious

Roll numbers to real Roll Numbers and after arranging Roll Numbers in the ascending order (Roll Number wise) not in the order of merit, the result of the candidates, who had qualified for the viva voce, was declared and published.

15. The marks secured by the candidates to be called for interview were kept confidential with the Secretary in the sealed covers and the Members of the Commission had absolutely no knowledge about the said marks. After the interviews were over, the list containing the marks secured by the candidates in the interview, was handed over to the Secretary of the Commission by the Commission in sealed covers. The Secretary thereafter proceeded to desal the mark-sheet of the candidate of the Main Examination and the marks secured in the interview and prepared the final result, which was put up before the Commission and the final result was declared on 04.01.2011.

16. It has further been pointed out that the Chairman and the two Members of the Commission had in writing intimated the Secretary of the Commission prior to commencement of the interviews about the relatives, who were taking part in the process of interview and they had recused at the time when the interview of the said candidate was being conducted.

17. As regards the allegation about the marks granted in the interview in such a manner so as to manipulate the selection of the influential persons/their wards/relatives, the same is denied on the basis of the process, which was being followed in the selection, where the marks obtained in the Written Examination were not known to the Members of the Interview Committee. It has been asserted that the marks were awarded to the candidates as per their performance in the interview. Allegation, that at

times, two or three Members conducted the interviews, has been specifically denied and it has also been stated that at the time when the Member recused himself from the Interview Committee, only four Members have awarded the marks and not five, as has been asserted.

18. In pursuance to the order dated 30.01.2014 passed by this Court, whereby the Commission was directed to make available the record pertaining to the interviews held, the final selection list and the letter dated 22.05.2009 sent by the Sai Data Processing Agency, New Delhi, along with relevant record and to file an affidavit depicting the position with regard to 22 candidates, who were included in the selection list of the Preliminary Examination and their fate in the Main Examination and final selection, an affidavit dated 03.02.2014 has been filed by the Secretary of the Commission, wherein the position has been explained. It has been stated that out of the 22 candidates, whose names were included on the basis of re-scanning and re-evaluation of 395 OMR sheets in the list of qualified candidates for the Main Written Examination, only five candidates qualified for the viva voce and out of these five candidates, only one candidate has been selected for the post of Assistant Excise and Taxation Officer. At the time of hearing, the records were made available and the same have been retained by this Court for perusal.

19. Counsel for the parties have put forth their submissions on the basis of above referred to pleadings *in extenso* and have argued their cases accordingly.

20. I have considered the submissions of the counsel and I am of the considered view that the allegations, as made in the writ petition, have been effectively and satisfactorily responded to and thus, cannot be

sustained in the light of the facts and the law prevalent and applicable to the case in hand.

21. To start with, it may be pointed out that the petitioners have approached this Court after an unexplained delay on the question of objection raised at this stage with regard to re-scanning/re-evaluation of the 395 OMR sheets and the said process having been conducted in the U.T. Guest House instead of it being carried out in the office of the Commission at Panchkula. The petitioners should have at the very first instance approached the Court when the last date for receipt of application for the Main Examination was extended vide Public Notice dated 13.06.2009 and in any case, the respondent-Commission has given a reasonable explanation for shifting the venue from the office of the Commission at Panchkula to the U.T. Guest House in Chandigarh. Further the Chairman/Members of the Commission as also the Secretary of the Commission have specifically stated in their replies that the Chairman and the Members of the Commission were not involved in the process of scanning/evaluation of the OMR sheets. They had come there and stayed in the U.T. Guest House to ensure that the computers etc. used by the agency, hired for evaluation/scanning of the OMR sheets, had not been programmed in advance, which may lead to manipulation of the result in any manner.

22. As regards the re-scanning and re-evaluation of the 395 OMR sheets are concerned, the produced records and communications clearly indicate that such a situation has arisen because of the mechanical fault and the decision was taken for reprocessing the 395 OMR sheets, so that no prejudice should be caused to any of the candidate. The action, thus, taken by the respondent-Commission appears to be in good faith and the same has

been done in a *bona fide* manner and no prejudice has been caused to any candidate. It may further be pointed out that out of the 22 candidates, who had qualified on the basis of the reprocessing, only five cleared the Main Written Examination and could participate in the interview, of which only one stands selected as an Assistant Excise and Taxation Officer. In any case, the marks obtained in the Preliminary Examination are not to be counted or taken into consideration nor does it influence the final selection as this exercise is only a process of shortlisting of the candidates and the performance in the Main Examination i.e. written and interview/viva voce is relevant for the final selection.

23. As regards the Written Main Examination is concerned, there are no allegations qua the said process. The objections and allegations, if any, are in relation to the interview conducted by the Commission of the candidates, who had qualified the Written Main Examination.

24. The first objection is with regard to non-association of an expert in the Interview Committee as a member. As has been stated by the respondents in their reply that as per the 2008 Rules, which governed the selection in question, there is no provision for associating any expert while holding the interviews of the candidates. Since the very inception of the Commission, in the 15 examinations relating to the HCS conducted, in none of these selections, expert has been associated while holding the interview. In any case, the Chairman and the four Members of the Commission have vast experience and knowledge in various subjects and they had interviewed the candidates. There is no rebuttal to the said assertion. If the statutory rules do not mandate association of an expert while holding the interview as a part of the Committee, the action of the Commission cannot be faulted

with in holding the interview by the Chairman and its Members.

25. The second objection raised with regard to the process of interview is the bias, *mala fide* and manipulative action on the part of the Commission with an intention to adjust the relatives by inflating the marks in the viva voce of the candidates they wanted to be selected and to reduce the marks of interview of the candidates, who had scored high marks in the Written Examination, so as to exclude them from the select list, does not hold the field for the reason that the marks obtained by the candidate in the Written Examination were not disclosed to the Members of the Commission. The candidates were called for interview as per their Roll Numbers and not in order of merit. The marks obtained in the Written Examination were kept confidential with the Secretary of the Commission in sealed covers and were only opened on receipt of the interview marks from the Commission and thereafter the result was prepared and declared. The Chairman and the Members of the Commission had absolutely no knowledge about the marks secured by the candidates in the Written Examination and, therefore, were not in a position to grant such marks as would bring the candidates within the selection list or out of it as per their choice. It has been specifically stated that the marks were awarded to the candidates on the basis of their performance in the interview in a just, fair and impartial manner without any favour or disfavour to any candidate.

26. The Hon'ble Supreme Court in ***Ashok Kumar Yadav Versus State of Haryana, AIR 1987 Supreme Court 454*** held as follows:-

“21. We do not think that the selections made by the Haryana Public Service Commission could be said to be vitiated merely on the ground that as many as 1300 and more candidates representing more than 20 times the number of available vacancies

were called for interview, though on the view taken by us that was not the right course to follow and not more than twice or at the highest thrice, the number of candidates should have been called for interview. Something more than merely calling an unduly large number of candidates for interview must be shown in order to invalidate the selections made. That is why the Division Bench relied on the comparative figures of marks obtained in the written examination and at the viva voce test by the petitioners, the first 16 candidates who topped the list in the written examination and the first 16 candidates who topped the list on the basis of the combined marks obtained in the written examination and the viva voce test, and observed that these figures showed that there was reasonable likelihood of arbitrariness and bias having operated in the marking at the viva voce test. Now it is true that some of the petitioners did quite well in the written examination but fared badly in the viva voce test and in fact their performance at the viva voce test appeared to have deteriorated in comparison to their performance in the year 1977-78. Equally it is true that out of the first 16 candidates who topped the list in the written examination, 10 secured poor rating in viva voce test and were knocked out of the reckoning while 2 also got low marks in the viva voce test but just managed to scrape through to come within the range of selection. It is also true that out of the first 16 candidates who topped the list on the basis of the combined marks obtained in the written examination and the viva voce test, 12 could come in the list only on account of the high marks obtained by them at the viva voce test, though the marks obtained by them in the written examination were not of sufficiently high order. These figures relied upon by the Division Bench may create a suspicion in one's mind that some element of arbitrariness might have entered the assessment in the viva voce examination. But suspicion cannot take the place of proof and we cannot strike down the selections made on the ground that the evaluation of the merits of the candidates in the viva voce examination might be arbitrary. It is necessary to point out that the Court cannot sit in judgment over the marks awarded by interviewing bodies unless it is proved or obvious that the marking is plainly and indubitably arbitrary or affected by oblique motives. It is only if the assessment

is patently arbitrary or the risk of arbitrariness is so high that a reasonable person would regard arbitrariness as inevitable, that the assessment of marks at the viva voce test may be regarded as suffering from the vice of arbitrariness. Moreover, apart from the only three candidates, namely. Trilok Nath Sharma, Shakuntala Rani and Balbir Singh one of whom belonged to the general category and was related to Shri Raghubar Dayal Gaur and the other two were candidates for the seats reserved for Scheduled Castes and were related to Shri R.C. Marya, there was no other candidate in whom the Chairman or any member of the Haryana Public Service Commission was interested, so that there could be any motive for manipulation of the marks at the viva voce examination. There were of course general allegations of casteism made against the Chairman and the members of the Haryana Public Service Commission, but these allegations were not substantiated by producing any reliable material before the Court. The Chairman and members of the Haryana Public Service Commission in fact belonged to different castes and it was not as if any particular caste was predominant amongst the Chairman and members of the Haryana Public Service Commission so as even to remotely justify an inference that the marks might have been manipulated to favour the candidates of that caste. We do not think that the Division Bench was right in striking down the selections made by the Haryana Public Service Commission on the ground that they were vitiated by arbitrariness or by reasonable likelihood of bias. (Emphasis applied)

27. The third objection raised is that mere participation of the Chairman/Members in the interview process and only recusing and withdrawing from participation in the interview at the time when the close relatives of such Members were to be interviewed, would not be enough as this would in any case have an influence over the awarding of marks in favour of the relatives of the Members by the other Members of the Interview Committee and simultaneously, awarding low marks to the other

candidates with a view to ousting the latter and bolstering up the former in the merit list but they should have withdrawn themselves totally from the selection process, cannot be accepted in the light of the judgment of the Hon'ble Supreme Court in **Ashok Kumar Yadav's** case (supra), where it has been held as follows:-

“18. We must straightaway point out that A.K. Kraipak’s case is a landmark in the development of administrative law and it has contributed in a large measure to the strengthening of the rule of law in this country. We would not like to whittle down in the slightest measure the vital principle laid down in this decision which has nourished the roots of the rule of law and injected justice and fair play into legality. There can be no doubt that 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 the situation here is a little different because the selection of candidates to the Haryana Civil Service (Executive) and allied services is being made not by any Selection Committee constituted for that purpose but it is being done by the Haryana Public Service Commission which is a Commission set up under Article 316 of the Constitution. It is a Commission which consists of a Chairman and a specified member of members and is a Constitutional Authority. We do not think that the principle which requires that a member of a Selection Committee whose close relative is appearing for selection should decline to become a member of the selection committee or withdraw from it leaving it to the appointing authority to nominate another person in his place, need be applied in case of a Constitutional Authority like the Public Service Commission,

whether Central or State. If a member of a Public Service Commission were to withdraw altogether from the selection process on the ground that a close relative of his is appearing for selection, no other person save a member can be substituted in his place. And it may sometimes happen that no other member is available to take the place of such 687 member and the functioning of the Public Service Commission may be affected. 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. Of course, we must make it clear that when a close relative of a member of a Public Service Commission is appearing for interview, such 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. Chinnappa Reddy, J observed to the same effect in **Javid Rasool Bhat v. State of J and K, 1948(2) SCC 631** while dealing with a similar question which arose before him for consideration:

"The procedure adopted by the Selection Committee and the member concerned was in accord with the quite well-known and generally accepted procedure adopted by the Public Service Commission everywhere. It is not unusual for candidates related to members of the Service Commission or Other Selection Committee to seek employment. Whenever such a situation arises, the practice generally is for the member concerned to excuse himself when the particular candidate is interviewed. We notice that such a situation had also been noticed by this Court in the case of **Nagarajan v. State of Mysore, (1963) 3 SCR 682** where it was pointed out that in the absence of mala fides, it would not be right to set aside the selection merely because one of the candidates happened to be related to a member of the Selection Committee who had abstained from participating in the interview of that candidate. Nothing unusual was done by the present Selection Committee. The girl's father was not present when she was interviewed. She was one among several hundred candidates. The marks obtained by her in the written test were not even

known when she was interviewed..... In the case before us, the Principal of the Medical College, Srinagar, dissociated himself from the written test and did not participate in the proceedings when his daughter was interviewed. When the other candidates were interviewed, he did not know the marks obtained either by his daughter or by any of the candidates. There was no occasion to suspect his bona fides even remotely. There was not even a suspicion of bias, leave alone a reasonable likelihood of bias. There was no violation of the principles of natural justice."

We wholly endorse there observations. Here in the present case it was common ground between the parties that Shri Raghubar Gaur Dayal Gaur did not participate at all in interviewing Trilok Nath Sharma and likewise Shri R.C. Marya did not participate at all when Shakuntala Rani and Balbir Singh came to be interviewed and in fact, both of them retired from the room when the interviews of their respective relatives were held. Moreover, neither of them took any part in any discussion in regard to the merits of his relatives nor is there anything to show that the marks or credits obtained by their respective relatives at the interviews were disclosed to them. We are therefore of the view that there was no infirmity attaching to the selections made by the Haryana Public Service Commission on the ground that, though their close relative were appearing for the interview, Shri Raghubar Dayal Gaur and Shri R.C. Marya did not withdraw completely from the entire selection process. This ground urged on behalf of the petitioners must therefore be rejected.(Emphasis applied)

28. The law as laid down in above judgment is the complete answer to the allegations made by the petitioners in these writ petitions.

29. That apart, I have perused the original records produced in Court, which was retained and find that the process of selection and the various decisions taken by the Commission from time to time, are *bona fide*, reasonable and just and all the allegations made by the petitioner are found to be without any basis and unjustified. The process of selection is in

accordance with law, which does not call for any interference by this Court.

30. In view of the above, the writ petitions stand dismissed with no order as to costs. The records are resealed and returned to the counsel for the Commission.

April 27th, 2015
Puneet

(AUGUSTINE GORGE MASIH)
JUDGE