

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

CWP No.4866 of 2015

Date of Decision:02.03.2017

Jyoti Rani and others

... Petitioners

Vs.

Bhagat Phool Singh Mahila Vishwa Viddyalaya, Khanpur Kalan Sonapat
and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. R.K. Malik, Sr. Advocate with
Mr. Kuldeep Sheoran, Advocate for the petitioners.

Mr. Tribhuvan Dahiya, Advocate for the respondents.

P.B. BAJANTHRI J. (Oral)

In the instant petition, the petitioners have questioned the action of the selection committee declaring them unsuitable to the post of Assistant Professor in English.

The respondent-institute advertised for the post of Assistant Professor (English) for SC candidate. The process of selection was completed on 20.11.2013 by calling the petitioners and others for interview. Perusal of Annexure P-2, it is evident that the process of interview is incomplete for the reasons that no interview marks have been awarded. However, it is mentioned that “quality of research papers as well as performance in the interview was not satisfactory”. Unless and until interview marks are awarded and then if the selecting committee comes to the conclusion that performance of each of the candidate was not satisfactory, one can understand. Merely stating that the quality of research papers as well performance in the interview was not satisfactory. Both are conclusive and not supported by any reasons. Decision must be supported by reasons. Thus, the decision of the selecting committee for the post of

Assistant Professor (English) dated 20.11.2013 read with decision dated 10.2.2014 vide Annexure P-2 is highly arbitrary and illegal. Supreme Court time and again held that even administrative decision must support the reasons. Supreme Court in the case of Orxy Fisheries Pvt. Limited v. Union of India and others; (2010) 13 SCC 427; in para 40, it is stated as under:

“In M/s Kranti Associates (supra), this Court after considering various judgments formulated certain principles in para 51 of the judgment which are set out below a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

b. A quasi-judicial authority must record reasons in support of its conclusions.

c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

g. Reasons facilitate the process of judicial review by superior Courts.

h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

- i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.*
- j. Insistence on reason is a requirement for both judicial accountability and transparency.*
- k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.*
- l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.*
- m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).*
- n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to [Article 6](#) of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".*
- o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".*

Therefore, observation made by the selecting committee “quality of the research papers as well as performance in the interview was not satisfactory” is set aside and the matter is remanded to the selecting authority for reconsideration of the petitioners' candidature pursuant to the advertisement dated 1.7.2013 (Annexure P-1) within a period of two months from today. Since no bench mark is stipulated for selection. Therefore, respondents cannot apply any principle of bench mark for selection.

At this stage, learned counsel for the respondents submitted that respondents issued fresh advertisement.

Until the selection process pursuant to the advertisement dated 1.7.2013 (Annexure P-1) is complete, the respondents are directed not to proceed with the process of selection to the post of Assistant Professor (English) for one SC post with reference to second advertisement dated 2.6.2014 (Annexure P-5).

Petition stands disposed of.

02.03.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**