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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.04.2025

PRONOUNCED ON : 02.06.2025

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 3355 of 2024

And

W.M.P.Nos. 3612 & 3613 of 2024

N.Mani

... Petitioner

..Vs..

1. The Registrar
Pondicherry University
Dr.B.R.Ambedkar Administrative Building
R.Venkataraman Nagar, Kalapet, Puducherry – 605 014
2. The University Grant Commission
Represented by its Secretary
Bahadur Shah Zafar Marg, New Delhi – 110 002.
3. Union of India, Rep. by its Secretary
Ministry of Education
No.122-C, Shastri Bhawan, New Delhi – 110 001. ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus calling for the entire records of the impugned order of the respondent in



Ref.No.PU/REGR/2023/257, dated 18.12.2023 and quash the same and thereby direct the first respondent to appoint the petitioner to the post of the Professor, Centre for the Study of Social Exclusion and Inclusive Policy as per the Notification/Advertisement in Advt.No. PU/RC/2019/34, dated 05.08.2019, as the petitioner is the most eligible candidate at the earliest and thereby give an effect to the reservation policy and to enable the Centre to function with full-fledge manner and grant such other relief.

For Petitioner :: Ms. Dakshayani Reddy
Senior Counsel
for Mr. G.Arumugaraja

For 1st Respondent :: Mr. V.Balamurugane
Standing Counsel

For 2nd Respondent :: Mr.S.Thiruvengadam

ORDER

The Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records of the order of the first respondent dated 18.12.2023 and quash the same and direct the first respondent to appoint the petitioner to the post of Professor, Centre for the Study of Social Exclusion and Inclusive Policy as per the Notification/Advertisement in Advt.No. PU/RC/2019/34, dated 05.08.2019. The petitioner claims that he is an eligible candidate and also seeks to give effect to the reservation policy.



2. In the affidavit filed in support of the Writ Petition, it had been stated that the petitioner was serving as Associate Professor and Head of the Department of Economics at Erode Arts and Science College, a Government aided College at Erode. The first respondent had called for online applications on 05.08.2019 in advertisement No. PU/RC/2019/34 inviting applications from candidates, for the post of Professor under SC category in the Centre for Study of Social Exclusion and Inclusive Policy.

3. It had been contended specifically by the petitioner that since the inception of the said Centre in the year 2009, the post of Professor which had been reserved for SC category had not been filled up and the petitioner had raised a ground that such non filling up of the post had defeated the intention and purpose of the creation of the said Centre by the University. The said post has been treated as a backlog vacancy from the date of commencement of the Centre.

4. The petitioner had applied for the position of Professor in response to the advertisement. He was invited for the interview which was held on 21.11.2022. He was the only candidate, who attended the interview. The other candidate, who was also short listed did not attend the interview.



5. The petitioner claims that he had the requisite UGC prescribed qualifications. He had 32 years of teaching experience and was serving as Associate Professor and Head of Department while the UGC regulations stipulated just 10 years of teaching experience.

6. The petitioner had published 13 books on Economics, 7 books on Education and Economics in Tamil, 17 articles in Peer-Reviewed Journals and 7 book Chapters in Edited Books. He had also published more than 51 articles in Hindu Tamil and Minnambalam online daily. Most of the books and articles in English and Tamil related to Social Exclusion and Inclusive Policy. The petitioner had pointed out that the UGC regulations stipulated only a minimum of 10 articles or books.

7. The petitioner had acquired an API score of 397 while the UGC prescribed a minimum of 120.

8. The UGC guidelines required that the candidate must have guided atleast one Ph.D Research Scholar. The petitioner had guided 9 Ph.D Research Scholars and 12 M.Phil Research Scholars.



9. The petitioner had also listed out the additional qualifications acquired by him. He had conducted 3 major research projects and two minor research projects sponsored by ICSSR and UGC. He had also introduced new teaching and learning methods in Economics teaching. This was presented in an academic conference and published as an article in the UGC Care List journal, University News. He had also introduced new courses in his college on Experiential Economics, Climate Change, Biodiversity and Body Language. He had also introduced a course on Law and Economics. He was also a member in the UG and PG Economics Board of Studies in two Universities and four Colleges. He had also provided Consultancy Services as Advisory Member for the Government of Tamil Nadu without honorarium, including Illam Thedi Kalvi, STEM project (Vaanaivil Nandram) and TATA Electronics group. He had also participated as Resource Persons in four International Seminars and delivered lectures on 14 occasions at National Level Seminars and served as a State-level Resource Person 6 times in National Seminars. He was also the Head of Department of Economics from June 2015. He had also received the Best Teacher award from the College Management.



10. The petitioner therefore claimed that he had the requisite or minimum qualification prescribed by the UGC to be considered for the post of Professor in the Centre for Study of Social Exclusion and Inclusive Policy. He claimed that his research career had been dedicated to the study of marginalized communities. He had also focused his research on the socio-economic and political status of scavengers, the conditions and human rights of home-based women workers, tribal migration through rainfed agriculture and the impact of COVID-19 on school education.

11. He further stated that the representation given by the petitioner seeking information regarding his application had been disposed of by stating that '*none found suitable*', for the post of Professor in the said Centre. No further reasons had been given by the respondents. The petitioner claimed that there had been no transparency in the selection process. The petitioner claimed that though he was fully eligible, he had been rejected as not suitable for the post without giving any reasons for arriving at said decision. It is under those circumstances that the Writ Petition had been filed in the nature of Certiorarified Mandamus to quash the aforementioned order of the first respondent dated 18.12.2023.



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12. A counter affidavit had been filed by the first respondent wherein it had been contended that the petitioner was the only candidate who had attended the interview on 21.11.2022 for the post of Professor in the Centre for Study of Social Exclusion and Inclusive Policy. It had been contended that the entire selection process had been conducted with due compliance to the stipulated UGC regulations. It had been further contended that mere eligibility would not imply that the petitioner was suitable for the post. It was contended that the Selection Committee did not find that the petitioner suitable for the post of Professor in the said Centre. It had been stated that though necessary regulations has been prescribed for the Schedule Category, the suitability and the fitness of the candidacy is mandatory for any particular post. It had therefore been contended that the Writ Petition must be dismissed.

13. A reply affidavit had been filed by the petitioner wherein it had been contended that the issue of suitability would come into play only after the completion of the probation period. During the period of probation, the candidate would be assessed for suitability and whether to be continued in employment. It had been further contended that the first respondent had

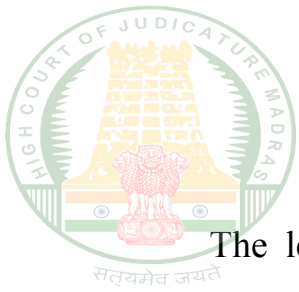


not complied with the Standing Instructions of the Ministry of Home Affairs which mandates strict implementation of the reservation policy. It had therefore been contended that the Writ Petition should be allowed.

14. When the Writ Petition came up for admission, a learned Single Judge of this Court by an order dated 23.10.2024 had directed production of the entire original file pertaining to the selection. The original files had been produced. The learned Senior Counsel for the petitioner and the learned Standing Counsel for the respondents were permitted to peruse the original files.

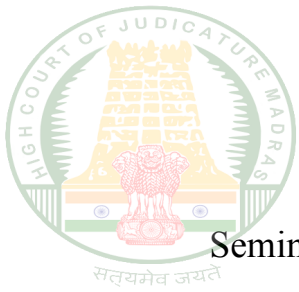
15. Heard arguments advanced by Ms. Dakshayani Reddy, learned Senior Counsel for the petitioner and Mr. V.Balamurugane, learned Standing Counsel for the first respondent.

16. The learned Senior Counsel for the petitioner pointed out that the petitioner had applied for the post of Professor in the Centre for the Study of Social Exclusion and Inclusive Policy in Pondicherry University consequent to a notification advertisement issued by the first respondent.



The learned Senior Counsel pointed out that the petitioner had requisite qualifications as prescribed by UGC. With respect to teaching experience.

UGC regulations stipulated a minimum of 10 years of teaching experience, while the petitioner had more than 32 years of experience. With respect to publications, the UGC regulation prescribed a minimum of 10 articles or books, whereas the petitioner had published nearly 13 books on Economic, 7 books on Education and Economics in Tamil, 17 articles in Journals and more than 51 articles in online daily, Hindu Tamil and Minnambalam. The UGC guidelines prescribed a minimum of 120 API score, whereas the petitioner had an API score of 397. The UGC regulations prescribed that the candidate should have guided one Ph.D research scholar whereas the petitioner had guided 9 Ph.D research scholars and 12 M.Phil research scholar. The petitioner had also conducted 3 major research projects and 2 minor research projects sponsored by ICSSR and UGC. The petitioner had also contributed for curriculum design and had introduced new courses on Experiential Economics, Climate Change, Biodiversity and Body Language. He had also introduced a Course on Law and Economics. He was also an Advisory Member for the Government of Tamil Nadu and had been invited to act as Resource Person in International and National Conferences and



Seminars. He had also introduced a new teaching and learning methodology in Economics teaching which had been published in the journal of the UGC itself. He had also received the Best Teacher award from the College Management.

17. The learned Senior Counsel further pointed out that the first respondent / Pondicherry University had infact invited the petitioner as a Resource Person in their workshops. The learned Senior Counsel expressed grievance that after being shortlisted for interview and being the only candidate, called to attend the interview, the petitioner's candidacy had been rejected as “*none found suitable*”. Reasons had not been given for the same.

18. The learned Senior Counsel therefore assailed that particular opinion of the Selection Committee and urged that this Court should set aside that opinion of the Selection Committee and direct appointment of the petitioner to the post of Professor in the Centre for the Study of Social Exclusion and Inclusive Policy in Pondicherry University.



19. Mr.V.Balamurugane, learned Standing Counsel for the first respondent however disputed the contention raised on behalf of the petitioner. The learned Standing counsel stated that even if the petitioner is considered eligible to be appointed to the post of Professor in the Centre for the Study of Social Exclusion and Inclusive Policy and the petitioner had been invited to attend the interview still the Selection Committee was within its rights to reject his candidacy and to declare that he was not found suitable. It had been contended by the learned Standing Counsel that this opinion of the Selection Committee cannot be subjected to judicial review by the Court. In this connection, the learned Standing Counsel had relied on the following Judgments:-

(i) **2008 14 SCC 306 [B.C.Mylarappa Vs. Dr.Chikkamylarappa & Others]** , wherein the Hon'ble Supreme Court had held as follows:-

“28. In *National Institute of Mental Health and Neuro Sciences v. Dr. K. Kalyana Raman* [1992 Supp (2) SCC 481 : 1992 SCC (L&S) 959 : (1992) 21 ATC 680] this Court considered in



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detail the role of an expert body in deciding the candidature for selection to a particular post. While doing so, this Court at SCC pp. 484-85, para 7 of the said decision observed as follows:

*“7. ... In the first place, it must be noted that the function of the Selection Committee is neither judicial nor adjudicatory. It is purely administrative. The High Court seems to be in error in stating that the Selection Committee ought to have given some reasons for preferring Dr. Gauri Devi as against the other candidate. The selection has been made by the assessment of relative merits of rival candidates determined in the course of the interview of candidates possessing the required eligibility. There is no rule or regulation brought to our notice requiring the Selection Committee to record reasons. In the absence of any such legal requirement the selection made without recording reasons cannot be found fault with. The High Court in support of its reasoning has, however, referred to the decision of this Court in **Union of India v. Mohan Lal Capoor [(1973) 2 SCC 836 : 1974 SCC (L&S) 5]**. That decision proceeded on a statutory requirement. Regulation 5(5) which was considered in that case required the Selection*



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*Committee to record its reasons for superseding a senior member in the State Civil Service. The decision in **Capoor case [(1973) 2 SCC 836 : 1974 SCC (L&S) 5]** was rendered on 26-9-1973. In June 1977, Regulation 5(5) was amended deleting the requirement of recording reasons for the supersession of senior officers of the State Civil Services. **Capoor case [(1973) 2 SCC 836 : 1974 SCC (L&S) 5]** cannot, therefore, be construed as an authority for the proposition that there should be reason formulation for administrative decision. Administrative authority is under no legal obligation to record reasons in support of its decision. Indeed, even the principles of natural justice do not require an administrative authority or a Selection Committee or an examiner to record reasons for the selection or non-selection of a person in the absence of statutory requirement. This principle has been stated by this Court in **R.S. Dass v. Union of India [1986 Supp SCC 617 : (1987) 2 ATC 628]** in which **Capoor case [(1973) 2 SCC 836 : 1974 SCC (L&S) 5]** was also distinguished.”*

Keeping this observation in our mind and considering the facts and circumstances of the



present case, we find that there was no dispute in this case that the selection was made by the assessment of relative merit of rival candidates determined in the course of the interview of the candidates and after thoroughly verifying the experience and service of the respective candidates selected the appellant to the post of the Professor in the said Department.

29. It is not in dispute that there is no rule or regulation requiring the Board to record reasons. Therefore, in our view, the High Court was not justified in making the observation that from the resolution of the Board selecting the appellant for appointment, no reason was recorded by the Board. In our view, in the absence of any rule or regulation requiring the Board to record reasons and in the absence of mala fides attributed against the members of the Board, the selection made by the Board without recording reasons cannot be faulted with. ”

(ii) **1964 4 SCR 575 :: AIR 1965 SC 491 [The University of Mysore Vs. C. D. Govinda Rao and another]**, wherein the Hon'ble Supreme Court had held as follows:-



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“13. It appears that the High Court was also dissatisfied with the conduct of Appellant 1 and its officers, and in fact, while dealing with the question about the length of the teaching experience of Appellant 2, the High Court has observed that “the material placed on record is of a doubtful nature characterised by a clear tendency to mislead the Court, if not an actual attempt to do so”. The learned Attorney General has complained that this criticism is not justified. In fact, after the judgment was pronounced, an application was made to the same learned Judges to expunge the criticism made against Appellant 1, and in support of this application, Mr Ethirajula Naidu, who was then the Advocate-General and who had argued the matter before the High Court, made an affidavit, showing that Appellant 1 could not be charged with having attempted to mislead the High Court. Even then, the High Court was not fully satisfied, and so in a judgment delivered by it on the application subsequently made to quash the said observations, the learned Judges observed that they were willing to accept and did accept the assurance given by the learned Advocate-General



that there was no actual attempt made to mislead the Court. Even so, they held that the material placed before the Court could or did have a tendency to mislead, and that is the opinion which they thought even after hearing the learned Advocate-General, was well founded, at any rate, not unwarranted. ”

(iii) **2006 8 SCC 192 / Union of India and Others Vs. Bikash**

Kuanar], wherein the Hon'ble Supreme Court had held as follows:-

“12. The matter relating to appointment or recruitment of EDDA is not governed by any statute but by departmental instructions. It is now trite that if a mistake is committed in passing an administrative order, the same may be rectified. Rectification of a mistake, however, may in a given situation require compliance with the principles of natural justice. It is only in a case where the mistake is apparent on the face of the record, a rectification thereof is permissible without giving any hearing to the aggrieved party.

14. When a Selection Committee recommends selection of a person, the same



cannot be presumed to have been done in a mechanical manner in absence of any allegation of favouritism or bias. A presumption arises in regard to the correctness of the official act. The party who makes any allegation of bias or favouritism is required to prove the same. In the instant case, no such allegation was made. The selection process was not found to be vitiated. No illegality was brought to our notice. In this view of the matter, we are of the opinion that the said Pitamber Majhi by reason of higher marks obtained by him in the matriculation examination also cannot be said to be a better candidate than the respondent herein. In this view of the matter, we do not find any fault with the impugned judgment of the High Court. ”

(iv) **2008 4 SCC 619 [Sadananda Halo and Others Vs. Momtaz Ali**

Sheikh and others], wherein the Hon'ble Supreme Court had held as follows:-

“58. It is settled law that in such writ petitions a roving inquiry on the factual aspect is not permissible. The High Court not only engaged itself into a non-permitted fact-finding exercise but



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also went on to rely on the findings of the amicus curiae, or as the case may be, the scrutiny team, which in our opinion was inappropriate. While testing the fairness of the selection process wherein thousands of candidates were involved, the High Court should have been slow in relying upon such microscopic findings. It was not for the High Court to place itself into a position of a fact-finding commission, that too, more particularly at the instance of those petitioners who were unsuccessful candidates. The High Court should, therefore, have restricted itself to the pleadings in the writ petition and the say of the respondents. Unfortunately, the High Court took it upon itself the task of substituting itself for the Selection Committee and also in the process assumed the role of an appellate tribunal which was, in our opinion, not proper. Thus, the High Court converted this writ petition into a public interest litigation without any justification.

*59. It is also a settled position that the unsuccessful candidates cannot turn back and assail the selection process. There are of course the exceptions carved out by this Court to this general rule. This position was reiterated by this Court in its latest judgment in **Union of India v. S.***



*Vinodh Kumar [(2007) 8 SCC 100 : (2007) 2 SCC (L&S) 792] where one of us (Sinha, J.) was a party. This was a case where different cut-off marks were fixed for the unreserved candidates and the Scheduled Caste and Scheduled Tribe candidates. This Court in para 10 of its judgment endorsed the action and recorded a finding that there was a power in the employer to fix the cut-off marks which power was neither denied nor disputed and further that the cut-off marks were fixed on a rational basis and, therefore, no exception could be taken. The Court also referred to the judgment in **Om Prakash Shukla v. Akhilesh Kumar Shukla** [1986 Supp SCC 285 : 1986 SCC (L&S) 644] where it has been held specifically that when a candidate appears in the examination without protest and subsequently is found to be not successful in the examination, the question of entertaining the petition challenging such examination would not arise. The Court further made observations in para 34 of the judgment [Ed. : **Chandra Prakash Tiwari v. Shakuntala Shukla**, (2002) 6 SCC 127 at p. 149 : 2002 SCC (L&S) 830.] to the effect : (S. Vinodh Kumar case [Union of India v. S. Vinodh Kumar, (2007) 8 SCC 100 : (2007) 2 SCC (L&S) 792] ,*



SCC p. 107, para 19)

“19. ... ‘34. There is thus no doubt that while question of any estoppel by conduct would not arise in the contextual facts but the law seems to be well settled that in the event a candidate appears at the interview and participates therein, only because the result of the interview is not “palatable” to him, he cannot turn round and subsequently contend that the process of interview was unfair or there was some lacuna in the process.’ ”

In para 20 this Court further observed that there are certain exceptions to the aforementioned rule. However, the Court did not go into those exceptions since the same were not material.”

(v) 1995 3 SCC 486 [Madanlal and Others Vs. State of J & K and

Others], wherein the Hon'ble Supreme Court had held as follows:-

“14.The Court noted that the basis of selection in that case was to assess the candidates' academic attainments, technical experience, administrative experience and suitability for the



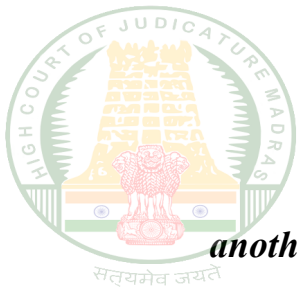
post of Principal. In the light of that rule it was held by this Court in the aforesaid decision that the interview board was not under any obligation to subdivide the marks under various heads. Almost an identical position obtains in the present case. Consequently, it must be held that there was no obligation for the Members of the Commission to give separate marks under various heads facultywise as mentioned in Rule 10(1)(b). The first contention therefore fails and is rejected.

17. In the light of what is stated above, while dealing with Contention 1, this contention also must fail. The petitioners subjectively feel that as they had fared better in the written test and had got more marks therein as compared to the selected respondents concerned, they should have been given more marks also at the oral interview. But that is in the realm of assessment of relative merits of candidates concerned by the expert committee before whom these candidates appeared for the viva voce test. Merely on the basis of petitioners' apprehension or suspicion that they were deliberately given less marks at the oral interview as compared to the rival candidates, it cannot be said that the process of assessment was vitiated.



This contention is in the realm of mere suspicion having no factual basis. It has to be kept in view that there is not even a whisper in the petition about any personal bias of the Members of the Interview Committee against the petitioners. They have also not alleged any mala fides on the part of the Interview Committee in this connection. Consequently, the attack on assessment of the merits of the petitioners cannot be countenanced. It remains in the exclusive domain of the expert committee to decide whether more marks should be assigned to the petitioners or to the respondents concerned. It cannot be the subject-matter of an attack before us as we are not sitting as a court of appeal over the assessment made by the committee so far as the candidates interviewed by them are concerned. In the light of the affidavit-in-reply filed by Dr Girija Dhar to which we have made reference earlier, it cannot be said that the expert committee had given a deliberate unfavourable treatment to the petitioners. Consequently, this contention also is found to be devoid of any merit and is rejected. ”

(vi) 2016 1 SCC 454 [Madras Institute of Development Studies and



another Vs. K.Sivasubramanian and Others], wherein the Hon'ble

Supreme Court had held as follows:-

“14. Now it becomes at once clear that when 75 marks were to be assigned to a candidate called for oral interview on the basis of the aforesaid five types of performances by the candidate, the assessment on first three tests would depend upon the documentary evidence regarding his career record which the candidates can furnish to the Interview Committee while the last two tests will depend upon his performance at the interview. In view of this hybrid type of tests for which assessment was to be made at the oral interview, 75 marks assigned for all these five tests necessarily had to be split up and from the career record of the candidate, separate marks had to be assigned for first three tests and that necessarily required separate assessment of marks on the remaining two heads of tests. It is in the light of this requirement of peculiar type of marking at the oral interview that it has been observed in paras 16 and 17 of the report that it was clearly illegal to give marks in a lump sum and that the Committee had not divided the marks under various heads nor



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on itemwise basis. It is also to be kept in view that while selecting a student for admission in MBBS course, what is more important is his performance in the written test and even at the oral interview his past record of performance has its own weight. A student while undertaking study is not required to perform any duty of a public office. But in the case of recruitment to the posts of Munsif he is required to work at the grassroot level of State Judiciary. For candidates aspiring to be appointed in such a judicial office, apart from the written test, his overall performance at the oral interview is more important and consequently the split-up of marks under various subheads at oral interview of such a candidate may not be strictly necessary unless the concerned rule regulating such a viva voce test expressly provides to that effect. As we have seen earlier Rule 10(1)(b) does not so prescribe and hence it was open to the Members of the Committee to make an overall assessment of the interviewed candidates keeping in view the various factors for such assessment as laid down by the said rule. That is precisely what has been done in the present case as stated by Dr Girija Dhar, a Member of the Interview Committee in para 3 of her affidavit-in-reply. It is stated by her that the



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*only considerations which the Members of the Interview Board had during the viva voce test were to judge the candidates on the basis of their intelligence, general knowledge, personality, aptitude and suitability as required by Rule 10(1)(b) of the recruitment rules, that all the questions directed at the candidates in the viva voce test were with this object in view and the assessment had been made of the candidates at the viva voce test accordingly. As a matter of fact, the particulars furnished by the candidates in their applications in pursuance of the advertisement only had been placed before the Members of the Interview Board. The results of the candidates at the written examination were not placed before the Members of the Interview Board. Nothing has been pointed out by the learned Senior Counsel for petitioners to disbelieve this version. No bias is also alleged against her or any other member who made the selection. It cannot therefore be said that Rule 10(1)(b) was violated by the Interview Committee while conducting viva voce test. It may also be mentioned at this stage that decision of this Court in **Minor A. Peeriakaruppan v. State of T.N.** [(1971) 1 SCC 38 : AIR 1971 SC 2303] was later considered by this Court in the case of Lila*



Dhar v. State of Rajasthan [(1981) 4 SCC 159 : 1981 SCC (L&S) 588] . In Lila Dhar case [(1981) 4 SCC 159 : 1981 SCC (L&S) 588] this Court distinguishing the ratio in Peeriakaruppan case [(1971) 1 SCC 38 : AIR 1971 SC 2303] observed as under: (SCC p. 166, para 9)

“It is true that in Peeriakaruppan case [(1971) 1 SCC 38 : AIR 1971 SC 2303] the Court held that the non-allocation of marks under various heads in the interview test was illegal but that was because the instructions to the Selection Committee provided that marks were to be awarded at the interview on the basis of five distinct tests. It was thought that the failure to allocate marks under each head or distinct test was an illegality. But, in the case before us, the rule merely and generally indicates the criteria to be considered in the interview test without dividing the interview test into distinct, if we may so call them, sub-tests.”

The aforesaid decision in Lila Dhar case [(1981) 4 SCC 159 : 1981 SCC (L&S) 588] was approved by a Constitution Bench of this Court speaking through Bhagwati, J. as he then was in Ashok Kumar Yadav v. State of Haryana [(1985) 4 SCC 417 : 1986 SCC (L&S) 88] . This aspect was also considered later by a Division Bench of



this Court speaking through Chinnappa Reddy, J. in Keshav Ram Pal (Dr) v. U.P. Higher Education Services Commission, Allahabad [(1986) 1 SCC 671 : 1986 SCC (L&S) 195 : AIR 1986 SC 597]. An identical contention concerning viva voce test conducted by the interview board which had not subdivided the total marks into subheads was rejected in that case. Chinnappa Reddy, J. speaking for the Division Bench observed that the Interview Board was not under any obligation to subdivide the marks under various heads. The Court noted that the basis of selection in that case was to assess the candidates' academic attainments, technical experience, administrative experience and suitability for the post of Principal. In the light of that rule it was held by this Court in the aforesaid decision that the interview board was not under any obligation to subdivide the marks under various heads. Almost an identical position obtains in the present case. Consequently, it must be held that there was no obligation for the Members of the Commission to give separate marks under various heads facultywise as mentioned in Rule 10(1)(b). The first contention therefore fails and is rejected.”



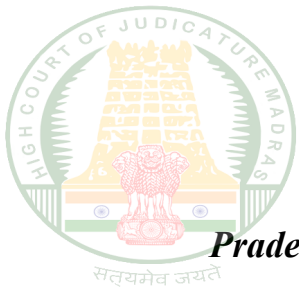
WEB COPY (vii) **2023 SCC OnLine SC 344 [Tajvir Singh Sodhi and Others Vs.**

State of Jammu and Kashmir], wherein the Hon'ble Supreme Court had held as follows:-

“In light of the pertinent selection procedure that was followed, we are unable to hold that the same was mechanical or casual or suffered from irregularities which were so grave or arbitrary in nature so as to justify quashing the entire selection process. Further, we are unable to trace the requirement of individual rolls being signed and verified by the members of the Selection Board, to any statute or rule. Therefore, we cannot sustain the finding of the High Court that the entire selection process was vitiated by such irregularity. The High Court was not justified in quashing and setting aside the entire selection process, more so when sixty-four candidates including the appellants had been serving on the said post for over a decade.”

(viii) **[2024] 9 SCR 150 :: 2024 INSC 660, 2024 SCC OnLine SC**

2418 [Chirag Bhanu Singh and Other Vs. High Court of Himachal



Pradesh and Others], wherein the Hon'ble Supreme Court had held as

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“15. Subsequently, a two-Judge Bench speaking through S.H. Kapadia, J. laid down important principles in Mahesh Chandra Gupta [Mahesh Chandra Gupta v. Union of India, (2009) 8 SCC 273]. This Court distinguished between “eligibility” and “suitability” and noted that Article 217(1) of the Constitution of India pertains to the “suitability” of an individual, whereas Article 217(2) concerns the “eligibility” of a person to become a Judge. While “eligibility” is an objective criterion, “suitability” is a subjective one. The Bench further observed that decisions regarding who should be elevated, which primarily involve considerations of “suitability”, are not subject to judicial review. It held as under : (SCC p. 292, para 44)

“44. At this stage, we may highlight the fact that there is a vital difference between judicial review and merit review. Consultation, as stated above, forms part of the procedure to test the fitness of a person to be appointed a High Court Judge under Article 217(1). Once there is consultation, the content of that consultation is beyond the scope of



judicial review, though lack of effective consultation could fall within the scope of judicial review. This is the basic ratio of the judgment of the Constitutional Bench of this Court in Supreme Court Advocates-on-Record Assn. v. Union of India [Supreme Court Advocates-on-Record Assn. v. Union of India, (1993) 4 SCC 441, para 482] and Special Reference No. 1 of 1998, In re [Special Reference No. 1 of 1998, In re, (1998) 7 SCC 739].”

16. The above view where the Court distinguished between “eligibility” and “suitability” has been consistently followed [M. Manohar Reddy v. Union of India, (2013) 3 SCC 99 : (2013) 3 SCC (Civ) 476 : (2013) 3 SCC (Cri) 84; High Court of Madras v. R. Gandhi, (2014) 11 SCC 547; Common Cause v. Union of India, (2018) 12 SCC 377 : (2018) 2 SCC (L&S) 280] in subsequent decisions of this Court including in the recent decision in Anna Mathews v. Supreme Court of India [Anna Mathews v. Supreme Court of India, (2023) 5 SCC 661] where it was noted as under : (SCC p. 667, para 10)

“10. We are clearly of the opinion that this Court, while exercising power of judicial review cannot



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issue a writ of certiorari quashing the recommendation, or mandamus calling upon the Collegium of the Supreme Court to reconsider its decision, as this would be contrary to the ratio and dictum of the earlier decisions of this Court referred to above, which are binding on us. To do so would violate the law as declared, as it would amount to evaluating and substituting the decision of the Collegium, with individual or personal opinion on the suitability and merits of the person.”

20. These are the only Judgments cited by the learned Standing Counsel during his arguments. In the typed set of papers, he had included further Judgments, but had not relied on them.

21. Placing his case on the dictum laid down and on the observations of the Hon'ble Supreme Court that the Court cannot sit as an Appellate Authority over the opinion of the Selection Committee and that there was a clear distinction between eligibility and suitability and further that no reason need be given for declaring a particular candidate as not suitable or rather there was no requirement to provide marks under various categories in an



interview, the learned Standing Counsel insisted that the Writ Petition should fail and should be dismissed.

22. I have carefully considered the arguments advanced.

23. The following facts are not in dispute:-

(1) The first respondent had issued Advt. No. PU/RC/2019/34, dated 05.08.2019 inviting applications for the post of Professor in the Centre for Study of Social Exclusion and Inclusive Policy in Pondicherry University.

(2) The said post was reserved for a Schedule Caste candidate.

(3) From the time of commencement of the said centre, the post of Professor had always been kept vacant and the backlog vacancy had been carried forward.

(4) The petitioner had applied for the said post along with another candidate.



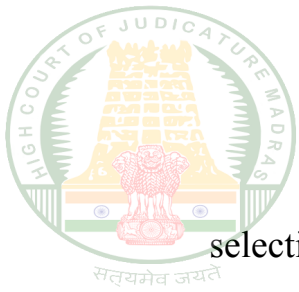
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(5) The petitioner was called for interview and was the only candidate who attended the interview on 21.11.2022.

(6) The impugned order was passed by the first respondent rejecting the candidacy of the petitioner on the ground "*none found suitable*".

24. The learned Senior Counsel for the writ petitioner had alleged that though the petitioner was considered eligible for the post, no reasons had been given as to why his candidacy had been rejected and had been declared as not suitable.

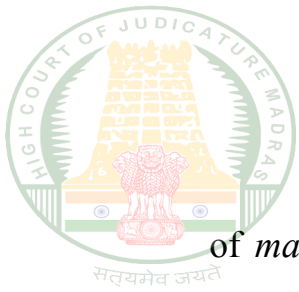
25. In the first Judgment referred by the learned Senior counsel for the first respondent reported in **2008 14 SCC 306 [B.C.Mylarappa Vs. Dr.Chikkamylarappa & Others]** referred *supra*, the Supreme Court was considering a case wherein an assessment of relative merit of rival candidates had been determined in the course of interview and thereafter, the appellant had been selected. His selection was questioned by the respondents. It was held that unless the respondents alleged *malafide* in the



selection of the appellant, the selection of the appellant could not be subjected to judicial review by the Court.

26. In the instant case, the petitioner was the only candidate, who attended the interview and naturally when it was held that *none was found suitable* when he was the only candidate, he had a legitimate expectation to be informed why he was found not suitable. The Judgment referred by the learned Standing Counsel is distinguishable on facts.

27. The second Judgment referred by the learned Standing Counsel for the first respondent reported in ***1964 4 SCR 575 :: AIR 1965 SC 491 [The University of Mysore Vs. C. D. Govinda Rao and another]*** was a writ of Quo Warranto wherein the appointment of the second respondent as a Reader by the University was challenged on the ground that the second respondent did not have the requisite qualifications. The High Court had issued a Writ of Quo Warranto setting aside the selection. The Hon'ble Supreme Court examined the recommendation of the Board of Experts appointed by the University for selection of the candidate for the post of Reader and held that the High Court should have shown due regard to the opinions expressed by the Board and its recommendations. Again, the issue



of *malafide* was examined and it was found that *malafide* was not alleged against the Board of Experts appointed by the University. It was further held that therefore it would be safe for the Courts to leave the decisions on academic matters to experts who are more familiar than the Courts can generally be.

28. Again the facts in the instant case are certainly distinguishable. The petitioner had only sought reasons as to why he was found not suitable. He had applied for the post reserved for Schedule Caste candidate. It is pertinent to point out that the post had not been filled up from the time of inception of the Centre. This would indirectly imply that there had been a deliberate attempt not to fill the post reserved for a Schedule Caste candidate. The facts being distinguishable, the ratio that it would be wise or safe to leave the decisions on academic matters to experts may not be directly applicable to the facts of this case, since the petitioner has a legitimate expectation to question arbitrariness in declaring him as not suitable when he possessed the requisite conditions for eligibility.

29. The third Judgment relied on by the learned Standing Counsel for



the respondents reported in **2006 8 SCC 192 [Union of India and Others**

WEB COPY Vs. Bikash Kuanar] was again a case relating to recruitment process where there was no allegation of favouritism or bias and therefore, the selection process was not interfered with by the Hon'ble Supreme Court.

30. It was also found that the respondent therein was the only candidate, who had submitted all necessary and required documents within the date prescribed by the appellant. At the time of selection, he was the only candidate who had the experience of working continuously in the said post for a period of 1 ½ years. It had been therefore held by the Hon'ble Supreme Court that a presumption could be drawn about the correctness of his selection.

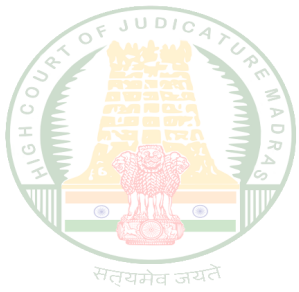
31. In the instant case again the facts are distinguishable. The petitioner was the only candidate, who was found eligible to be called for interview. The details regarding the manner in which the interview was conducted had not been disclosed. It is thus seen that this Judgment cited by the learned Standing Counsel would not come to his rescue in so far as the facts of this case are concerned.



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32. The next Judgment cited by the learned Standing Counsel for the first respondent reported in **2008 4 SCC 619 [*Sadananda Halo and Others Vs. Momtaz Ali Sheikh and others*]** again related to a recruitment process wherein the interview date was postponed and it was assailed as a political decision. The actual reason for postponement was due to a car rally and festivals. The recruitment was for 5,500 posts of Armed Constables. The unsuccessful candidates had filed the Writ Petitions. They claimed that the interview date was postponed to favour those who had been selected. It was found that the postponement was only due to the Asian Car Rally, Kali Puja, Diwali and Id festivals and no *mala fide* could be attributed for such postponement.

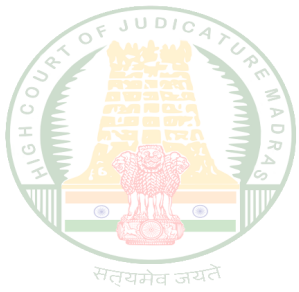
33. The facts in the instant case are certainly distinguishable. The petitioner has questioned non selection to the post exclusively reserved for a Schedule Caste candidate when he was found eligible to attend the interview.



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34. The next Judgment relied on by the learned Standing Counsel for the first respondent reported in **1995 3 SCC 486 [*Madanlal and Others Vs. State of J & K and Others*]**, related to challenge by unsuccessful candidates over grant of marks in viva voce. It was claimed that the interview should have been tape recorded. It was contended that lower marks had been given in the interview for the candidates who had obtained higher marks in the written examination. It was further contended that the select list comprised a majority of candidates belonging to only one community. It was also contended that one candidate was the daughter of the Chairman of the Selection Committee and other, the daughter-in-law of a Member of the Public Service Commission.

35. The entire issue was with respect to the selection to the Jammu and Kashmir Civil Services (Judicial) Recruitment. The Hon'ble Supreme Court held that the interview Board was not under any obligation to subdivide and grant marks under various heads. It was also found that the Expert Committee had not granted deliberate favour to the Selected Candidates.



36. In the instant case, the petitioner questions his rejection and not the selection of any specific candidate. He was the only candidate, who attended the interview. He was held to be not suitable. The petitioner only seeks the reasons why the Selection Committee came to be that decision. He had a legitimate expectation to be informed about the why he was rejected. The facts again are certainly distinguishable.

37. The next Judgment relied on by the learned Standing Counsel for the first respondent reported in *2016 1 SCC 454 [Madras Institute of Development Studies and another Vs. K.Sivasubramaniyan and Others]* was a challenge by unsuccessful candidates to the appointment for the post of Assistant Professor and Associate Professor. It was held that when the candidate had participated in the selection procedure without raising any objection to the variation in the contents of advertisement and the rules and had forwarded his application, he cannot raise those variations as a ground to question the selection of the candidates who had been appointed. It was specifically found that the petitioner had not protested against the variation in the advertisement but had questioned it only after he found he was not selected.



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38. In the instant case, the petitioner had not questioned the norms for selection. He has however only raised an issue relating to the opaque nature of the Selection Committee in not giving any reason as to why they found him not suitable to be selected. The case on hand is certainly distinguishable to the case cited by the learned Standing Counsel for the first respondent.

39. The next Judgment relied on by the learned Standing Counsel for the first respondent reported in **2023 SCC OnLine SC 344 [Tajvir Singh Sodhi and Others Vs. State of Jammu and Kashmir]** was with respect to the appointment of Drug Inspectors. The appellants had been selected. The selection was set aside by a learned Single Judge and also by the Division Bench of the High Court. A fresh interview was directed to be conducted. On examination of the facts, the Hon'ble Supreme Court had held that there cannot be any interference with the selection process by holding it to be mechanical or casual.

40. Again, the facts are distinguishable. In the instant case, the



petitioner was the only candidate, who had been called for interview and he was rejected as not suitable and it is under those circumstances that he had filed the Writ Petition. He had not questioned the selection of any other candidate.

41. The last Judgment relied on by the learned Standing Counsel for the first respondent reported in **[2024] 9 SCR 150 :: 2024 INSC 660, 2024 SCC OnLine SC 2418 [Chirag Bhanu Singh and Other Vs. High Court of Himachal Pradesh and Others]** was a case related to the non consideration of the names of the appellants for elevation as Judges of the High Court.

42. As a matter of fact, the Hon'ble Supreme Court had held that the Writ Petition was maintainable since there was lack of effective consultation and had directed the High Court Collegium to again reconsider the names of the appellants for elevation as Judges of the High Court. The issue of eligibility was examined by the Hon'ble Supreme Court and though it was found that suitability and eligibility are two separate aspects, still at the time of deciding suitability, it was held that there must be effective consultation among the Collegium members.

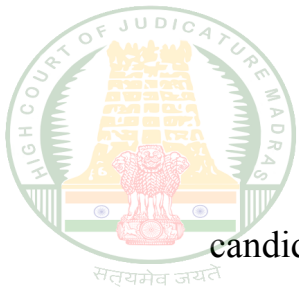


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43. In the instant case one fact which stands out on perusal of the records produced by the respondent is with respect to the determination of the eligibility of the petitioner by the Recruitment Cell which had met on 11.02.2021 and had examined the credentials of the petitioner and had found him eligible to be further assessed during interview. Thus, the petitioner had crossed the first stage of screening, namely, eligibility to be called for interview. This was based on his educational and professional qualifications and experience.

44. The next stage was the interview. The relevant records had also been produced. The minutes of the meeting of the Selection Committee held on 21.11.2022 had been produced. The Selection Committee consisted of the Vice Chancellor of Pondicherry University and 8 other members. In the meeting held on 21.11.2022, the Vice Chancellor as Chairman and four other members had alone participated. They had returned an opinion *none found suitable*.

45. This opinion itself is a misnomer as the petitioner was the only



candidate, who appeared for the interview and therefore the opinion should be focused on his eligibility and suitability and it cannot be a generalised statement. This meeting was on 21.11.2022.

46. Thereafter, an E-mail had been sent by the Vice Chancellor on 23.02.2023 to two other members who had not signed the resolution on 21.11.2022, calling upon their authentication of the resolution. This separate communication was sent to two other members, who had not attended the meeting at all. They were never in a position to assess the suitability of the petitioner. They however affixed their signatures as rubber stamps. This cannot and does not withstand the scrutiny of the Court. Their signatures had been obtained subsequently nearly after three months from the date on which the suitability of the petitioner was assessed. This certainly invites the allegation of *mala fide* in the rejection of the petitioner to the post of Professor. This fact has to be stated in conjunction with the definite allegation that though the post of Professor was reserved exclusively for a Schedule Caste candidate, no candidate had been selected from the year 2009.



WEB COPY 47. This would only imply that there is a deliberate policy adopted by the first respondent to exclude any and every Schedule Caste candidate, even though eligible from being appointed to the said post.

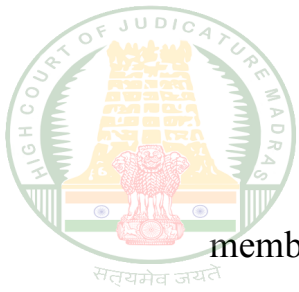
48. This deliberate attitude is against the object enunciated in the Constitution wherein Article 16 provides for Equality of Opportunity in matters of Public Employment. Articles 16(1) and (2) are as follows:-

“(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State,

*(2) No citizen shall, on grounds only of religion, race, **caste**, sex, descent, place of birth, residence or any of them, **be ineligible for, or discriminated against** in respect of, any employment or office under the State. ”*

[Emphasis Supplied]

49. The petitioner has acquired extraordinary qualifications. That fact cannot be denied or disputed. He was probably more qualified than the



members of the Selection Committee. The Chairman of the Selection Committee / Vice Chancellor and four other members had given an opinion '*none found suitable*' without assigning any reason. Three months later, two other members authenticated this decision without even meeting the petitioner in person even for a casual talk. Their opinion has to be rejected as it was not based on any criteria at all.

50. The first respondent has deliberately ensured exclusion of a Schedule Caste candidate from being appointed as Professor in the Centre for Study of Social Exclusion and Inclusive Policy. The name of the Centre makes the rejection of the petitioner extremely ironical. He had been excluded owing to the community he comes from and not because he was not qualified. He had not been selected only owing to the narrow policy of the Selection Committee.

51. This case is unique in itself. The petitioner was the only candidate, who was deemed eligible to appear for the interview but still he was rejected.



WEB COPY 52. The regulations of UGC 2018 stipulate that the selection procedure shall be transparent / objective and there must be a credible methodology of analysis of the merits and credentials of the applicants.

53. In *(1993) 1 SCC 71 [Food Corporation of India Vs. Kamdhenu Cattle Feed Industries]*, the Hon'ble Supreme Court held as follows in paragraph No.8:-

“8. The mere reasonable or legitimate expectation of a citizen, in such a situation, may not by itself be a distinct enforceable right, but failure to consider and give due weight to it may render the decision arbitrary, and this is how the requirement of due consideration of a legitimate expectation forms part of the principle of non-arbitrariness, a necessary concomitant of the rule of law. Every legitimate expectation is a relevant factor requiring due consideration in a fair decision-making process. Whether the expectation of the claimant is reasonable or legitimate in the context is a question of fact in each case. Whenever the question arises, it is to be determined not according to the claimant's perception but in larger public interest wherein other more



*important considerations may outweigh what would otherwise have been the legitimate expectation of the claimant. A bona fide decision of the public authority reached in this manner would satisfy the requirement of non-arbitrariness and withstand judicial scrutiny. **The doctrine of legitimate expectation gets assimilated in the rule of law and operates in our legal system in this manner and to this extent. ”***

54. In the instant case, the rejection of the petitioner and failure to give due weightage to his experience and educational qualifications renders the decision of the Selection Committee arbitrary and subject to judicial scrutiny.

55. The Judgments cited by the learned Standing Counsel for the first respondent have been discussed and are certainly distinguishable on facts. In this case, the petitioner has been deliberately ousted from being selected. It is very depressing to note that two members of the Selection Committee had ascribed their signatures as mere rubber stamps three months later than the interview. Such procedure certainly calls for interference and the procedure adopted is also held to be arbitrary and it is further held that it was



with *mala fide* intention that the petitioner was declared as not suitable.

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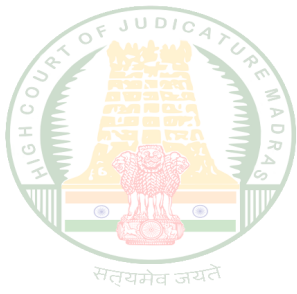
That decision is therefore interfered with by this Court and is set aside.

56. A direction is issued to the first respondent to issue an order of appointment to the petitioner to the post of Professor in the Centre for Study of Social Exclusion and Inclusive Policy in Pondicherry University within a period of two weeks from this date. The petitioner is entitled for service and monetary benefits on and from 18.12.2023.

57. The Writ Petition stands allowed. Consequently, connected Miscellaneous Petitions stand closed. No order as to costs.

02.06.2025

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Index: Yes/No
Internet: Yes/No
Speaking / Non Speaking Order

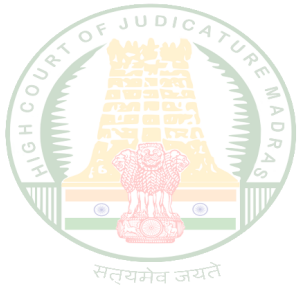


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- To
1. The Registrar
Pondicherry University
Dr.B.R.Ambedkar Administrative Building
R.Venkataraman Nagar, Kalapet, Puducherry – 605 014
 2. The Secretary
The University Grant Commission
Bahadur Shah Zafar Marg, New Delhi – 110 002.
 3. The Secretary
Union of India,
Ministry of Education
No.122-C, Shastri Bhawan, New Delhi – 110 001.

C.V.KARTHIKEYAN, J.,

vsg



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Pre-Delivery Order made in

W.P.No. 3355 of 2024

And

W.M.P.Nos. 3612 & 3613 of 2024

02.06.2025