



LPA-829-2018 and connected case

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

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**(I) LPA-829-2018 (O&M)
Reserved on: July 30, 2025
Pronounced on: August 11, 2025**

JITENDRA KUMAR

-APPELLANT

V/S

DEEPAK KUMAR AND ORS.

-RESPONDENTS

(II) LPA-831-2018 (O&M)

SANGEETA

-APPELLANT

V/S

STATE OF HARYANA AND ORS.

-RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Sunil Hooda, Advocate and
Mr. S.K. Rehdi, Advocate
for the appellant (in LPA-829-2018).

Mr. Gurinder Pal Singh, Advocate and
Ms. Sushma Singh, Advocate
for the appellant (in LPA-831-2018).

Ms. Deepika, Advocate for
Mr. S.K. Yadav, Advocate
for the respondent No.1 (in LPA-829-2018).

Mr. Rahul Sharma-I, Advocate
for the respondent No.1 (in LPA-829-2018) and
for the respondent No.8 (in LPA-831-2018).

Mr. Amit Jhanji, Senior Advocate with
Mr. Anhad Batta, Advocate
for the respondent Nos.4, 5 and 7 (in LPA-829-2018) and
for the respondents No.3, 4, 6 (in LPA-831-2018).

Mr. Bhuvan Vats, Advocate
for the respondent-University (Appeared through V.C.)

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Mr. Vijay Pal, Advocate
for the applicant/proposed respondent No.10
(in LPA-829-2018).

Mr. Saurabh Mohunta, D.A.G, Haryana.

KULDEEP TIWARI, J.

1. Both these Letters Patent Appeals are amenable to being decided through a common verdict, on account of their enveloping a common issue for adjudication, besides arising from a common order.

2. Concisely and compendiously, the facts qua which there is no wrangle amongst the contesting litigants are that, two posts of Assistant Professor (Geography) were advertised by the respondent No.4-College, and in response, a total of 50 candidates applied. Out of these, 27 candidates were shortlisted and invited for an interview on 02.09.2013. Ultimately, two candidates, namely, Jitendra Kumar and Sangeeta (the appellants herein), were selected in order of merit by the duly constituted Selection Committee of seven members, which comprised not only expert members but also a nominee of the concerned University. Consequently, an offer of appointment was made to them on 21.09.2013, and they joined the service on the same day.

3. Feeling dissatisfied with the selection process, one of the unsuccessful candidates filed CWP-12119-2014 before this Court, alleging that the selection result was compromised by bias. It was claimed that a member of the Selection Committee was not only the guide of one of the selected candidates but also his co-author in the research papers submitted for evaluation during the interview.

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4. Considering the undisputed fact that a member of the Selection Committee (respondent No. 7 herein) was not only the guide of one of the selected candidates (appellant- Jitendra Kumar) for his Ph.D. but also his co-author in research papers, the learned Single Judge, by drawing the impugned order dated 17.05.2018, allowed the writ petition and quashed the selection for the post of Assistant Professor. It was categorically observed that anything that raises an apprehension of bias in the minds of applicants competing for a post, is sufficient to nullify a selection process.

5. Fetching grievance from quashing of the selection, the selected candidates/present appellants have instituted these intra court appeals against the impugned order drawn by the learned Single Judge.

6. It is apposite to record here that although the selection was quashed vide the impugned order, during the pendency of these appeals, a Co-ordinate Bench of this Court, vide interim order dated 17.12.2018, allowed the appellants to continue in the posts they were holding. As such, the appellants have been continuing to discharge their duties as Assistant Professors (Geography) since their initial joining.

7. The learned senior counsel for the appellant- Jitendra Kumar, in his endeavour to assail the impugned order, argues that merely because a member of the Selection Committee happened to be the guide and co-author in research papers with the appellant, this does not, by itself, establish the existence of bias. In fact, the appellant's guide/respondent No.7 also happened to be the guide of another shortlisted candidate,



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namely Rekha Sharma. However, she awarded only 6 marks to her, whereas awarded 18 marks to the appellant- Jitendra Kumar in the interview. This clearly reflects that the interview marks were awarded purely in accordance with the performance of the shortlisted candidates.

8. In furtherance of his above argument, he submits that it was not only the appellant whose guide was a member of the Selection Committee, but also the guides of the hereinafter enumerated three other shortlisted candidates, who were called for interview, were members of the Selection Committee. The respondent No.4-College, in respect whereof the posts were advertised, is affiliated with the M.D. University, Rohtak and experts are nominated by the University, hence the guides of most of the candidates are Professors of the University. In these circumstances, the allegations of bias are totally unfounded.

Name of Shortlisted Candidate	Name of Guide / Member of Selection Committee
Dr. Jitender Singh	Prof. S.K. Bansal (Guide in M. Phil)
Sandeep Kumar	Prof. S.K. Bansal (Guide in M. Phil)
Seema	Prof. Inderjeet Singh (Guide in Ph.D.)

9. The second limb of the argument advanced by the learned senior counsel is that, the appellant Jitendra Kumar undoubtedly holds first rank in the order of merit. To lend vigour to this argument, he draws the attention of this Court to the marks awarded to the shortlisted candidates in interview, and submits that, even if the marks awarded by the appellant’s guide/respondent No.7 are excluded and an average is taken of the marks awarded by the remaining members of the Selection Committee, yet the average of his interview marks comes to 13 and his

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total marks adds up to $15 + 13 = 28$ marks. Although the total marks of another selected candidate- Sangeeta (appellant herein) also comes to 28, she is younger than the appellant- Jitendra Kumar. Therefore, the appellant- Jitendra Kumar, being older, still holds first rank in the order of merit.

10. The learned counsel for the appellant- Sangeeta submits that, there was no allegation of bias qua the interview marks awarded to her, as none of the members of the Selection Committee were either the Guide or Teacher or Co-author in the research papers with her. This aspect has not at all been considered by the learned Single Judge while declaring the selection to be vitiated on the ground of violation of rule against bias. Therefore, the impugned order deserves the interference of this Court.

11. *Per contra*, the learned counsel for the contesting respondent(s) submits that, there is no illegality or perversity in the impugned order, hence no interference is required therein. It is amply clear from the record that, the respondent No.7/guide of appellant- Jitendra Kumar awarded him the maximum 18 out of 20 marks, which clearly emits foul smell of bias. Consequently, the selection has rightly been declared vitiated by the learned Single Judge.

12. This Court has heard the learned counsels for the contesting litigants and has also made a studied survey of the impugned order. The sole reason assigned in the impugned order for declaring the selection to be vitiated is that, the respondent No.7 not only remained the guide of the appellant- Jitendra Kumar, but was also his co-author in the research

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papers. The relevant extract of the impugned order is reproduced hereunder:-

“7. Now, I shall examine the question of bias. It is not disputed that respondent No. 8 is co-author of research papers with respondent No. 3. It is also not denied that respondent No. 8 was his guide for Ph.D. Specific allegations have been made against her in the writ petition but she has chosen not to counter the same by filing a reply. Propriety demanded that respondent No. 8 should have recused herself from the selection process since her protege was a candidate. Thus, the allegation of bias is not unfounded. Even something which raises an apprehension of bias in the mind of applicants competing for a post, is sufficient to nullify a selection process. Under the circumstances, it can not be held that the selection process was fair and proper.”

13. It is well settled law that courts, under its writ jurisdiction, do not interfere with selections made by expert bodies by reassessing the comparative merits of the candidates. Interference with selections is limited to decisions vitiated by bias, *mala fides* and violation of any statutory provision.

14. The issue emerging for consideration in this case is ***“Whether the presence of the guide of one of the selected candidates in the Seven-Member Selection Committee raises any apprehension of bias sufficient enough to quash the entire selection on this sole ground”***.

15. This issue has already been examined by a Three-Judge Bench of the Hon’ble Supreme Court in ***“Dalpat Abasaheb Solunke Vs. Dr. B.S. Mahajan”***, 1990(1) SLR 849. In that case also, the High Court set aside the appointment of the selected candidates, as some of the members of the Selection Committee remained guide of the selected

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candidates, but the Hon'ble Supreme Court held that, mere this fact does not vitiate the selection made. It was observed that, generally experts on the Selection Committees have to be drawn from the teaching faculty and most of them have to interview candidates, who were at one or the other time their students. That cannot disqualify them from being the members of the Selection Committees. The relevant observations are reproduced hereunder:-

“10. The fourth and the last ground given by the High Court to set aside the appointment of the appellant in CA No. 3507/89 is that the fourth and the fifth respondents to the Writ Petition were guides of the appellant when he was doing his M.Sc. by Research. We are unable to understand as to how the fact that they were his guides when the appellant was doing his M.Sc. would influence their decision in selecting him, or vitiate the selection made. They must have been guides to many who had appeared for the interview. As senior teachers in the Faculty in question, it is one of their duties to guide the students. In fact, very often the experts on the selection Committees have to be drawn from the teaching faculty and most of them have to interview candidates who were at one or the other time their students. That cannot disqualify them from being the members of the Selection Committees. In fact, as stated by the 4th respondent in his affidavit before the High Court, even the 2nd respondent, the aggrieved candidate was also his student. Curiously enough the High Court has discarded the said fact by observing that in point of time, the appellant was closer to the 4th respondent as a student since the appellant was his student at a later date. It is not necessary to comment further on this reasoning.

As an aside of the very same reason, the High Court has also found the presence of the sixth respondent on the Committee as vitiating the selection, and the only reason given by the High Court in that behalf is as follows :



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“...In this background if we consider the reply of sixth respondent, Shri Shyamrao S. Kadam, the member of the Selection Committee were of the opinion that the apprehension expressed by the petitioner that the members of the Selection Committee had shown favour to the 7th respondent cannot be said to be without any substance.”

There is no discussion or finding given by the High Court on the alleged role played by the 6th respondent. We are therefore at a loss to know in what manner the 6th respondent had influenced the decision of the Selection Committee. Probably the Court had nothing further to say with regard to the alleged "role" of the 6th respondent. We therefore refrain from saying anything more on the subject.”

16. In **“Krishnadatt Awasthy Vs. State of M.P. and Ors.”**, 2025 **SCC OnLine SC 179**, the Hon’ble Supreme Court has held that, the *nemo judex* rule is subject to the rule of necessity. The assumption of impartiality must not also be an abstract analysis but should equally consider the contextual background for the application of the doctrine of necessity. The relevant paragraphs of the verdict rendered in the above case are reproduced hereinafter:-

“30. It must also be emphasized that the nemo judex rule is subject to the rule of necessity and yields to it. In J Mohapatra v State of Orissa, the Court recognized that the doctrine of necessity serves as an exception to the rule against bias. In a matter like this, the doctrine of necessity would also be squarely attracted since the statute explicitly mandates the composition of the selection Committee, as outlined in Schedule II of the Rules. The doctrine of necessity recognizes that decision-making bodies need to function even in circumstances where potential conflicts of interests may arise. Here as earlier noted, the concerned members recused and did not award any marks. It must however be borne in mind that the doctrine of necessity is an exception and



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must be applied bearing in mind the circumstances in a given case. The size of the jurisdiction must also be taken into account for the application of the doctrine of necessity. In this regard, Forsyth and Wade have noted that in small jurisdictions, qualified persons may be few in number and likely to be known to the parties making the 'fair minded and informed observer' test impractical. The doctrine of necessity is where such considerations of size should be considered rather than in the distortion of the test.

31. The assumption of impartiality must not also be an abstract analysis but should equally consider the contextual background, for the application of the doctrine of necessity. This is a selection at a village level where it is very likely, that people involved would know each other. In Charanjit Singh v Harinder Sharma, a public interest action was filed challenging the selection of clerks, firemen, drivers, peons and instructors for the Municipal Council in Mansa, a small town in Punjab by a selection committee which had relatives of some of the selectees on it. The High Court had quashed the decision but the Supreme Court noted that in a small town like Mansa, it would be difficult to constitute a Selection Committee of total strangers. The relative of some candidate or the other is bound to find a place on the Committee. Therefore, the Court is required to see whether the prescribed balancing mechanism was followed when a relative of the member of the Selection Committee was being considered. The Rules required that when such a candidate appeared, the concerned selection committee member should recuse from the proceedings and such a candidate could only be appointed after obtaining the approval of the Regional Deputy Director, Local Government. This was seen as an acceptable mode to rule out bias in selection or selections being influenced by a relative."

17. Also, in ***"M.V. Thimmaiah and others Vs. Union Public Service Commission and others"***, (2008) 2 Supreme Court Cases 119, the Hon'ble Supreme Court has held that, it is duty of courts to scrutinise



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the allegations of *mala fide* and bias meticulously because the person, who is making the allegation of animus, does sometimes bona fide or sometimes mala fide due to his non-selection. Therefore, unless the allegations are substantiated beyond doubt, till that time the court cannot draw its conclusion. The relevant observations are reproduced hereunder:-

“19. So far as the allegation of mala fide against Shri B.S.Patil is concerned, he was not impleaded as a party. Therefore, the allegation of mala fide could not be entertained by the Tribunal. As such, the allegation of mala fide against Shri B.S.Patil could not be taken into consideration and rightly so, by the High Court as well as by the Tribunal. The allegation of mala fide is very easy to be levelled and it is very difficult to substantiate it, specially in the matter of selection or whoever is involved in the decision making process. People are prone to make such allegations but the Courts owe a duty to scrutinize the allegation meticulously because the person who is making the allegation of animus does sometimes bona fide or sometimes mala fide due to his non-selection. He has a vested interest. Therefore, unless the allegations are substantiated beyond doubt, till that time the Court cannot draw its conclusion. Therefore, we reject the allegation of mala fide.”

18. Furthermore, while examining a similar issue in **“Ashutosh Mangotra Vs. State”, 1994(2) S.C.T. 120**, the Jammu and Kashmir High Court held that, a teacher-student relationship is a pious relationship and all students are equally near and dear to a teacher who normally is not expected to discriminate or segregate between them on considerations other than the merit. Merely because a teacher happened to be a part of the Selection Committee, was not found sufficient ground for vitiating the selection process on account of violation of rule against bias. The relevant

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observations are extracted hereinafter:-

"12. In the present case it is denied that respondent No. 3 happened to be the teacher of respondent No. 4 in her M.A. (Music) Course. But it is admitted that respondent No. 4 has registered herself for research programme under the guidance of respondent No. 3 and is required to visit the latter quarterly or half yearly". There is nothing on the record to gauge the nearness of the relationship between the two. It is not alleged by the petitioner that they are on very intimate terms or in close friendship nor is it borne by the record that there is any such connection between them so as to create impression that respondent No. 3 could be biased in favour of respondent No. 4. The foundation of the petitioner's case, proceeds on the premise that bias should be inferred merely because of the teacher taught relationship between the two irrespective of any factual closeness between them.

13. The contention deserves to be rejected and I am afraid no such inference can be drawn merely because the relationship is that of a teacher-student. It is hard to believe that a teacher in the very nature of his or her duty can be biased in favour of one or the other candidate unless circumstances exist which show a high degree of closeness between them on personal level. A teacher-student relationship is a pious relationship and as submitted by Mr. Raina, all students or candidates are equally near and dear to a teacher who normally is not expected to discriminate or segregate between them on considerations other than the merit. It is a different thing that some considerations or factors may creep in this relationship to turn it into a close friendship and to make it prone to the human probabilities and weaknesses. But for that the degree of closeness and nearness is required to be shown so as to enable the court to infer bias in the circumstances. The petitioner has failed to discharge this obligation in the instant case and as pointed out hereinbefore, there is nothing on record to show that any circumstances exist which point to the closeness of the

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relationship between respondents 3 and 4. In that view it is difficult to infer that respondent No. 3 was biased in favour of respondent No. 4 culminating in the recommendation impugned. I am fortified in this view by a judgment of the Supreme Court in Dalpatabba Sahib's case (AIR 1990 SC 434) and 1976 SCJ 670. In the first case their Lordships observed, "we are unable to understand as to how the fact that respondents 4 and 5 who were his guides when the appellant was doing his M.Sc., would influence their decision in selecting him"."

19. On the anvil of the above legal propositions, this Court has examined the hereinabove formulated issue. Although there is no dispute that the Seven-Member Selection Committee included the respondent No.7- Prof. Nina Singh Sangwan, who happened to be the guide of one of the selected candidates (appellant- Jitendra Kumar), this mere fact does not create any element of bias, especially in the dearth of any other supporting material on record. Moreover, it was not only the selected candidate/appellant- Jitendra Kumar whose guide was a member of the Selection Committee interviewing the shortlisted candidates, rather the guides of some other shortlisted candidates were also members of the said Selection Committee, yet their students remained unsuccessful in securing appointment. This makes it abundantly clear that the selection procedure adopted by the Selection Committee was transparent, and the mere presence of the selected candidate's guide in the Selection Committee does not give rise to any apprehension of bias. Had there been any element of bias, there might have been a chance that, instead of another selected candidate/appellant- Sangeeta, who had no connection with any of the Selection Committee Members, any of the shortlisted candidates

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detailed under paragraph 8 of this verdict, whose guides were members of the Selection Committee, would have secured a place in the merit list and obtained appointment.

20. Consequently, this Court has no hesitation in penning down a dis-affirmative answer on the issue formulated in paragraph 14 of this verdict. The impugned order drawn by the learned Single Judge warrants the interference of this Court.

FINAL ORDER

21. In summa, these Letters Patent Appeals are **allowed** and the impugned order is **set aside**.

22. Pending application(s) stand disposed of accordingly.

23. A photocopy of this order be placed on file of connected case.

(ASHWANI KUMAR MISHRA)
JUDGE

(KULDEEP TIWARI)
JUDGE

August 11, 2025
devinder

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No