



**IN THE HIGH COURT OF HIMACHAL PRADESH  
AT SHIMLA**

**CWP No.1686 of 2018**  
**Reserved on: 06.07.2023**  
**Decided on: 18.07.2023**



People for Responsible Governance ...Petitioner

Versus

State of H.P. & others ...Respondents

*Coram*

**The Hon'ble Mr. Justice M.S. Ramachandra Rao, Chief Justice**  
**The Hon'ble Mr. Justice Ajay Mohan Goel, Judge**

*Whether approved for reporting?*

For the petitioner: Mr. Rajnish Maniktala, Senior Advocate, with Mr. Naresh Verma, Advocate.

For the respondents: Mr. Anup Rattan, Advocate General with M/s Navlesh Verma, Rakesh Dhaulta, Pranay Pratap Singh, Additional Advocate Generals and M/s Gautam Sood, Arsh Rattan, Sidharth Jalta, Deputy Advocate Generals, for respondent no.1.

Mr. Vikrant Thakur, Advocate, for respondent no.2.

< Mr. Pramod Singh Negi, advocate, for respondent no.3.

Mr. Neel Kamal Sharma, Advocate, for respondent no.4.

Mr. Kamal Sharma, Advocate vice Mr. Naresh K. Sharma, Advocate, for respondent no.5.

Mr. Inder Sharma, Advocate, for respondent no.6.

**M.S. Ramachandra Rao, Chief Justice**

In this PIL, the petitioner, which is an NGO, seeks the following reliefs:- ◇

*“(i) That the respondents may be directed to conduct the video recordings of all the selection processes conducted by the respondents 2 to 6 in accordance with the Judgment of the Apex Court in SLP No. 33995 - 34027/ 17 titled, "State of Meghalaya Versus Chikirbha".*

*(ii) That the respondents may further be directed to frame rules/ guidelines for conducting the video-recordings of all the selection processes consisting of test and interviews as well.*

*(iii) Any other order deemed just and proper may also be passed in the facts and circumstances stated hereinabove in favour of the petitioner.”*

**Contentions of petitioner**

2. According to the petitioner, selections for various posts are being conducted by respondents no.2 to 5 and there are lot of allegations in respect to the unfairness of procedure levelled against them in a number of petitions filed in the Courts from time to time; rule of fairness, demands that all appointments are conducted freely and fairly in a transparent manner without there being any malicious motives, as mandated by Article 14 of the Constitution.

3. Petitioner has given some instances where controversies surrounded recruitments made by certain Public Service Commissions, Subordinate Service Selection Boards and other recruitment agencies.

4. It is contended that though the State of Himachal Pradesh had remained untouched by similar controversy and the State had even stopped the practice of interviews in the selection process for all Class-III and Class-IV posts through Annexure P-3, dt. 17<sup>th</sup> April, 2017, still the Himachal Pradesh Public Service Commission continued with the selection to Class-III and Class-IV posts on the basis of interviews. ◇

5. According to the petitioner, some selections have even been challenged before the Himachal Pradesh State Administrative Tribunal.

6. The petitioner contends that 100 marks have been kept for interview by the said Commission contrary to the UGC requirements.

7. Reliance is placed on the judgment of the Supreme Court in *State of Meghalaya vs. Phikirbha Khariah*<sup>1</sup> and it is asserted that in that case the Supreme Court had directed the recruitment agencies to compulsorily conduct video-recording at the time of conducting tests as well as at the time of interviews in order to maintain fairness in the selection process.

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#### The stand of the State Government

8. The State Government (respondent no.1) has filed a reply stating that the then Advocate General, State of Himachal Pradesh had given a legal opinion dt. 26<sup>th</sup> October, 2020 that the Supreme Court has talked about desirability of taking certain steps as referred to in the judgment of **Phikirbha** ( 1 supra) to

<sup>1</sup> SLP No.33995-34024/17 dt.4.4.2018= 2018 6 SCC 618

ensure the purity and transparency in the selection process, but ultimately the call is required to be taken by the agencies at their own end; and the Public Service Commission, which is a Constitutional body, knows its responsibility more than anybody else and such a call, if any, as far as practicable, is required to be taken by it. ◇

9. It also stated that the Deputy Commissioner of Districts were requested by the Himachal Pradesh Public Service Commission through a letter dt. 12<sup>th</sup> September, 2018 to work out the proposals for videography of the examination centres along with its financial implications where after as per the need, the Government may provide them adequate funds for the purpose. It is stated that the State Government had already started videography in the examination halls within its premises.

10. It is stated that the Government in principle agrees to videograph all the examination centres and the Commission had requested on 01.06.2023 for funds of Rs.2.00 crore to install CCTV cameras in the private institutes on rental basis through the BSNL where no such facility is available, and that the Finance Department had agreed in principle to provide funds for such purpose. <

11. As regards videography of personal interview conducted by the Commission is concerned, the Government stated that it cannot advise the Himachal Pradesh Public Service Commission in view of the autonomy exercised by such Commission under Article 320 of the Constitution of India.

12. Alongwith the reply there is a letter dt. 12<sup>th</sup> September, 2018, addressed by the Secretary, H.P. Public Service Commission to the Principal Secretary (Personnel) to the Government of Himachal Pradesh. In that letter, as regards videography of the interviews, the Commission communicated its opinion that the interaction/discussions between the panel of interview and the candidate is essentially confidential in nature; and the videography of the content of the interview and putting it in public domain would amount to compromising the sanctity of the interview process which would ultimately lead to avoidable multiplicity of litigation. It opined that videography during the actual conduct of interview is not desirable. ◇

13. In the said letter, it is further contended that the order of the Supreme Court in the above case requires constitution of a Committee to review the contents of videography and report of such committee is to be uploaded on the website, but the Commission deliberated on the issue and considered that it would neither be desirable nor practical to constitute the Committee to review the contents of interview for the following reasons: <

*“i) The Commission is a Constitutional Authority and the constitutional provisions no where provides for supervising the work of the Commission. It will become as extra constitutional authority and may influence the independent working of the Commission.*

*ii) The marks in oral interview depends upon various factors such as presentation, personality, aptitude, knowledge and suitability to the post.*

*The Members of the interview board, before whom the candidate had appeared are the best judge to assess aforementioned factors to award marks in interview.*

iii) *Hon'ble Delhi High Court in **Moti Kumari Versus Secretary General. Supreme Court of India** decided on 15-02-2016, held that it is a settled principle of law that scope of judicial review in matter of appointments and selection is limited. The decision of the selection committee can be interfered on limited grounds such as illegality or patent material irregularity in constitution of selection committee, vitiating the selection or the proved malafide affecting the selection process.*

iv) *Honourable Supreme Court in various judgments **Ashok Kumar Yadav & ors. vs State of Haryana & Others**, AIR 1987 SC 454, **Dalpat Abhasaheb Solunke etc Vs Dr. B.S. Mahajan etc.** AIR 1990 SC 434., **Madan Lal and ors. Vs State of Jammu & Kashmir & Others**, AIR 1995, SC 1088 has laid down that the viva voce test is essentially matter of determination by experts / Selection committee.*

v) *In view of the above Commission is of the considered opinion that the constitution of a committee to review contents of interview in the video will not be in consonance with the settled principles of law. Therefore, the mandate of the external Committee must be restricted to reviewing the videos of the written/computer based tests and aspects mentioned at para 2(a) to (d) of the interview process only.”*

14. Thus, primarily the stand taken by the Commission is that since its power flows from Article 320 of the Constitution and since there is no amendment to the provisions of the Constitution providing for supervising its work, constituting a committee to supervise or review the working of the Commission through



videography of its interviews would make it an extra constitutional body and would affect the independent working of the Commission.

**Stand of the HP Public Service Commission**



15. Reply is filed by the Himachal Pradesh Public Service Commission (respondent no.2) pointing out that in the above decision, the Supreme Court had merely observed that *it is desirable* that as far as possible, selection process conducted by selection body be video-graphed; that the said Commission had already held deliberations for the implementation of the said judgment and various aspects with regard to implementation of the judgment are being finalized; that the Commission had framed its own rule of business; selections are being made by it on the basis of recruitment rules of concerned departments for the posts which rules had been framed by the Government of Himachal Pradesh; and on the basis of rule of business several selections conducted by it have been upheld by the High Court.
16. It is contended that the UGC regulations/guidelines do not override rules framed by the State Government under proviso to Article 309 of the Constitution of India; and it is for the State to incorporate the suggestions/recommendations made by the UGC; and otherwise such recommendations are not binding on the State Government as well as the Commission.

**Stand of the HP Staff Selection Commission ( respondent no.3)**

17. HP Staff Selection Commission - Respondent no.3 has filed its reply  stating that it is entrusted with the duty of recruitment for Class-III and Class-IV posts/services under the State Government and that the Government of Himachal Pradesh had issued a notification on 17.04.2017 discontinuing/dispensing with the process of personal interview for direct recruitment of Class-III and Class-IV posts and replacing them with 15 marks evaluation on prescribed parameters based on socio economic conditions.
18. It is stated that multiple factors are taken into consideration in the personal interview such as alertness, resourcefulness, dependability, capacity for discussion, ability to make decision, qualities of leadership, capacity for logical exposition of ideas and its presentation, effectiveness in dealing with others, adaptability, capability, suitability, ability to lead, intellectual and moral integrity etc. for selection to Class-III posts.
19.  It is stated that in the examination halls of capacity of approximately 500 candidates, CCTV cameras are fitted; that there are flying squads headed by Tehsildar/Naib Tehsildar, who visit the examination centres, where written examinations are taking place, to ensure fair and smooth conduct of the examinations; Administrative control of the Department of Personnel to the Government of Himachal Pradesh exists for conducting selection process to



Class-III posts and it is for the State Government to frame appropriate rules of business and procedure in that regard.

**Stand of Himachal Pradesh University (respondent no.4)**



20. Respondent no.4-University i.e. Himachal Pradesh University has filed the reply stating that it is adopting the rules for recruitment and promotion on the analogy of the State Government rules for various posts of non-teaching staff.

**Stand of CSK HP Krishi Vishvavidyalaya, Palampur ( respondent no.5)**

21. Respondent no.5-University filed a reply stating that the selection process for various posts in the said University is fair and transparent and purely on the basis of prescribed procedure and the selection process is strictly monitored and supervised by the competent authority of University to avoid any kind of irregularities in the selection process. It is stated that there is no provision in the rules of the said University for video-recording of the selection process.

**Stand of the YS Parmar University of Horticulture, Nauni, Solan ( respondent no.6)**


22. Respondent no.6-University also filed a reply stating that Statutes and Regulations have been framed for making appointment to posts in the said University after taking approval of the Government of Himachal Pradesh. It also stated that the policy enshrined in the notification dt. 17.04.2017 has been adopted by it with regard to discontinuing of interviews for Class-III and Class-IV posts and necessary amendment to this effect has also been carried out in the Statutes of the said University.

**Rejoinder filed by petitioner**


23. Rejoinders have been filed by the petitioner enclosing several newspapers articles and mentioning that the Himachal Pradesh Police Recruitment exams scam 2022 occurred as the question paper was leaked before the written examination for police recruitment. Instances of scams in other States are also referred to therein and news articles reporting the same are enclosed. Reference is made to the judgment of the Supreme Court regarding videography of the scene of crime, installation of CCTV cameras in all prisons and in police stations. ◇

**Consideration by the Court**

24. We have noted the contentions of all the parties.
25. It is true that all the respondents carry out recruitment to posts in the State Government/ their respective organizations.
26. No doubt, as pointed out by the petitioner, there have been some instances where selection made by the Public Service Commissions or the other respondents have been found to be defective on some grounds.
27. May be that is why, the Supreme Court, in its order in the *State of Meghalaya* (1 supra) considered that for the purity of selection to public post, *it is desirable* that as far as possible selection process conducted by selection bodies be videographed; and at examination centres as well as interview centres, CCTV

cameras are desirable to be installed to the extent viable and footage thereof may be seen by an independent Committee of three members; and report of such Committee may be placed on the website concerned. 

28. But the Supreme Court in the said order had left it to the Department of Personnel and Training (DoPT), Ministry of Personnel, and other State and Central Agencies to consider the *desirability* of adopting this approach; and has refrained from issuing a Writ of mandamus for implementation of the same. Therefore, the stand taken by the petitioner that the Supreme Court had held that the recruitment agencies must conduct video recording at the time of conducting the tests as well as at the time of interviews, cannot be countenanced because such a mandatory direction is not contained in the said judgment.

29. However, none of the respondents have disputed that video recording is being done at the time of conduct of written test for selection to various posts by them, but as regards interviews are concerned, certain valid objections have been raised by the Himachal Pradesh Public Service Commission in its letter dt.  12<sup>th</sup> September, 2018, referred to above.

30. One such objection is that interaction/discussions between the interview panel and the candidate are confidential in nature; and the videography of the content of the interview and putting it in public domain would amount to compromising the sanctity of the interview process, which would lead to avoidable multiplicity of litigation.

31. The other major obstacle pointed out is that the said Commission is a constitutional authority and constitutional provisions nowhere provide for supervising the work of the Commission; and if there is any independent Committee to supervise its action, it would become extra constitutional authority and may influence the independent working of the Commission. ◇

32. Another important issue, which was pointed out during the course of hearing of this case by the learned counsel for Himachal Pradesh Public Service Commission, is that identity of the subject panel would be compromised if videography is permitted during the interview process, since there is every possibility of the identity getting leaked, and such subject experts being approached or pressurized by inducement, threat or promise to decide in a particular manner.

33. In *Madan Lal & Ors vs. The State of Jammu & Kashmir and Ors*<sup>2</sup>, the Supreme Court observed that even though there was no tape-recording of questions and answers by the interview committee, the viva voce test/interview should on that score be held vitiated. <

34. Having regard to the concerns expressed by the said Commission, which would equally apply to the other respondents, and having regard to the possibility of compromising the confidentiality of the interview process leading avoidable multiplicity of litigation, and also having regard to the constitutional

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<sup>2</sup> (1995) 3 SCC 486

position enjoyed by the State Public Service Commission, and also the fact that the selection committee is usually constituted by the other respondents in accordance with the relevant Statutes and Regulations/Rules, we are of the view that a Writ of Mandamus cannot be issued to the respondents in matters of this nature. ◇

- 35.** In our opinion, one should not start with a premise that something untoward is being done / is going to be done in every selection process; and unnecessarily, one cannot create a bogey of mistrust in the public in that regard and make them lose confidence in the selection being made by the respondents.
- 36.** Admittedly, there is limited scope of judicial review in matter of appointments and selections made by any of the respondents.
- 37.** Therefore, in our opinion, no relief can be granted at the instance of the petitioner for issuance of Writ of mandamus to the respondents to videograph the interview process in the selections being conducted by the respondents.
- 38.** As regards the contention that high marks are prescribed for interview to certain posts is concerned, it is not the case of the petitioner that its members had participated in any such selection and has been unsuccessful on account of any arbitrary action by members of the interview panel. So petitioner has no locus to raise such a plea. <

39. Also, the Supreme Court held in *Ashok Kumar Yadav and Ors. vs. State Of Haryana and Ors*<sup>3</sup> that rigid rules cannot be laid down in these matters by Courts and only expert bodies are generally the best judges. ◇

40. Therefore, when there is no challenge to any of the regulations framed by the respondents regarding the number of marks earmarked for interview during selection processes, and since all the respondents state that they are following notification dt. 17<sup>th</sup> April, 2017 issued by the State Government stopping the practice of interview in the selection process for all Class-III and Class-IV posts, we cannot grant any relief in that regard.

41. For all the aforesaid reasons, this Writ petition is dismissed. No costs.

42. Pending application(s), if any, shall also stand disposed of.

**( M.S. Ramachandra Rao )**  
**Chief Justice**

**( Ajay Mohan Goel )**  
**Judge**

July 18, 2023  
(vt)

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<sup>3</sup>(1985) 4 SCC 417