

Supreme Court of India

Javid Rasool Bhat & Ors. Etc vs State Of Jammu & Kashmir And Ors on 16 February, 1984

Equivalent citations: 1984 AIR 873, 1984 SCR (2) 582

Author: O C Reddy

Bench: Reddy, O. Chinnappa (J)

PETITIONER:

JAVID RASOOL BHAT & ORS. ETC.

Vs.

RESPONDENT:

STATE OF JAMMU & KASHMIR AND ORS.

DATE OF JUDGMENT 16/02/1984

BENCH:

REDDY, O. CHINNAPPA (J)

BENCH:

REDDY, O. CHINNAPPA (J)

VENKATARAMIAH, E.S. (J)

MISRA, R.B. (J)

CITATION:

1984 AIR 873                      1984 SCR (2) 582

1984 SCC (2) 631                1984 SCALE (1) 358

CITATOR INFO :

F                      1987 SC 454 (18)

ACT:

Educational Institutions-Admission to.

Medical Colleges-Admission to-Viva voce test-Whether Court could go into relevancy of questions put to candidates.

Natural Justice: Medical Colleges-Admission to-Candidate related to Member of Selection Committee-Selection whether vitiated.

HEADNOTE:

The State Government issued an advertisement inviting application for admission to the first year MBBS course in the two medical colleges in the State. It was mentioned therein that the candidates would have to appear in a written test which would be followed by a Viva-voce test and that 85 points were allowed for the written test and 15 points were Viva-voce test. The Selection Committee for the selection was constituted to consist of the Chairman of the State Public, Service Commission as Chairman, and two members, viz, the Principals of the two Medical Colleges. The quorum for a meeting of the Committee was stipulated as

the Chairman and one member. When the Selection Committee held its first meeting one of the members, the Principal of the College informed the Committee that as his daughter was one of the candidates competing for admission, it would not be desirable for him to be associated, at any stage, with the written test, and that he would not like to be present when his daughter was interviewed. The Committee took note of the information and agreed with the suggestion.

The petitioners in their writ petitions under Article 32, questioned the selection of candidates for admission : It was contended on their behalf that: (1) the entire selection was vitiated by the presence on the Committee of the father of a candidate, and this was a gross violation of one the principles of natural justice: (2) the entire procedure was bad as the marks obtained by the candidates at the qualifying examination (T.DC-Part I Medical group) were not taken into account and not given any weightage; (3) the viva-voce test provided for 7 points for general knowledge and general intelligence whereas it would have been more appropriate to test general knowledge and general intelligence of candidate by holding a written instead of a viva-voce test; (4) general knowledge and general intelligence were not matters to be tested in a written examination; (5) there was delay in the announcement of the results and the delay made the selection suspect, and (6) the regulations made by the Indian Medical Council prescribed that the marks obtained in the qualifying examination should be taken in to consideration.

Dismissing the writ petition;

^

HELD: 1. It is not unusual for candidates related to members of the Service Commission or other Selection Committee to seek employment. Whenever such a  
583

situation arises. the practice generally is for the member concerned to excuse himself when the particular candidate is interviewed.

In the instant case, the Principal of the Medical College, whose daughter was a candidate for admission to the Medical College informed the Selection Committee at the very outset about this fact and told them that he would not have anything to do with the written test and would not be present when his daughter was interviewed. The other members of the Selection Committee accepted the suggestion of the Principal and did not address the Government to appoint a substitute member of the Selection Committee, since the Government had fixed the quorum for a meeting of the Selection Committee, as the Chairman and one other member and it was possible to have a quorum without the Principal. The procedure adopted by the Selection Committee and the member concerned was in accord with the quite well-known and generally accepted procedure adopted by the Public Service Commissions everywhere.

Nagarajan v. State of Mysore, [1966]3 S.C.R. 682, referred to. [596A-C]

2. It is not for the Court to sit in judgment over the nature of the questions to be put by the members of the Selection Committee. It is for the members of the Selection Committee to decide what they should ask and so long as the questions are not such as to indicate that the interview was nothing but a make-believe, the matter must be allowed to rest there. It is not the function of the Court to weigh each question to find out the extent to which it is related to aptitude, general knowledge or general intelligence. If the question is not flippant, it is not for the Court to say that the question was irrelevant and should not have been asked at any interview. Perhaps irrelevant questions may also be asked to explore the candidate's capacity to detect irrelevancies. It is not for the Court to claim to itself the test of determining the nature of the questions to be put to candidates appearing at an interview. The persons constituting the Selection Committee who may generally be assumed to be men of experience and knowledgeable in regard to men and matters may surely be expected to put the right questions. In the absence of malafides, the matter is best left to them. [589 E-G]

3(i) The question as to the subjects in which an entrance test may be held is hardly a matter for the Court, unless, of course, the subjects are so arbitrarily chosen as to have not the slightest connection with the object of the examination. Such a situation is not likely to arise as the authorities may be expected to act reasonably. Again it is not for the Court to lay down whether an interview test should be held at all or how many marks should be allotted for the interview test. Of course, the marks must be minimal so as to avoid charges of arbitrariness but not necessarily always. There may be posts and appointments where the only proper method of selection may be by an interview test Even in the case of admission to higher degrees courses, it may sometimes be necessary to allot a fairly high percentage of marks for the Interview test. That is why rigid rules cannot be laid down in these matters, and not by courts. The experts are generally the best judges. The Courts duty lies in preventing arbitrariness and denial of equal opportunity. [592C-E, 592B]

3(ii) There is interfere when the risk of arbitrariness is so high that arbitrariness is inevitable. Again the Court is not the best judge of what questions may be asked at the inter-view. All that is necessary is that the questions should not be amere pretence. [592F]

584

Ajay Hasia's case, [1981] 2 S.C.R. 79; Chitra Lekha and Ors. v. State of Mysore and Ors., [1964] 6 S.C.R. 368; A. Peeriankaruppan v. State of Tamil Nadu & Ors., [1971] 2 S.C.R. 430; and Lila Dhar v. State of Rajasthan , [1982] 1 S.C.R. 320 referred to.

4(i) The Selection Committee apparently thought it would be better to have a common entrance test. It appears to be a perfectly reasonable procedure. Even otherwise it is always open to a Selection Committee to insist on taking into consideration marks obtained in the examination held by it and excluding from consideration marks obtained in examinations held by other bodies. There is nothing wrong in this procedure. [595C-D]

4(ii) It was a matter for the Selection Committee to decide whether general knowledge and general intelligence could be more appropriately tested in the viva-voce test or in the written test. That is not a matter for the court to decide. [595F]

5. There was in fact no delay in the announcement of results and the suspicion, if any, was unfounded. [595G]

6. The regulation of the Indian Medical Council prescribing that the marks obtained at the qualifying examination should be taken into consideration has no application because there are two Medical colleges in the state. Though only one Board conducted the qualifying examination, the examinations were conducted separately for Jammu and Srinagar areas and on two different occasions. Moreover, the regulations of the Council have been held to be directory and not mandatory by this Court. [597 D-E]

Madhya Pradesh v. Kr. Nivedita Jain [1981] 4 S.C.C. 296, referred to.

#### JUDGMENT:

ORIGINAL, JURISDICTION: WRIT PETITION (CIVIL) Nos. 13325-37. 13366, 13683 to 13687 of 1983, 256-260 & 579-81 of 1984 (Under article 32 of the Constitution of India) Anil Dev Singh, Ashok Sen and S.B. Bhasme R. Satish, S.S. Gupta, J.L. Kotidhar and S.S. Khanduja, for the Petitioners.

Y.S. Chitale, G.L. Sanghi, S.N. Kacker and V.M. Tarkunde Altaf Ahmad for Respondents.

The Judgment of the Court was delivered by CHINNAPPA REDDY, J. Writ petitions questioning admissions to the medical colleges at Srinagar and Jammu appear to have become an annual feature in this court. In the previous years, there was some justification. It does not appear to be so this year. In these writ petitions, the selection of candidates for admission to the two medical colleges at Srinagar and Jammu as well as the nominations by the Government of Jammu & Kashmir to medical colleges outside the State are in question. On May 24, 1983, the Government of Jammu & Kashmir issued an advertisement inviting applications from permanent residents of Jammu & Kashmir State for admission to the first year MBBS in the medical colleges at Jammu & Srinagar. One of the conditions of eligibility was that a candidate should have passed the "First TDC (Medical Group) examination from Jammu & Kashmir Board of School Education with not less than 50% of the total marks in English and Science subjects taken together". There was some relaxation in favour

candidates belonging to the Scheduled Castes, etc. with which we are not now concerned. We are also not concerned in these writ petitions with the 'reservations' made in favour of various classes. We are only concerned with the seats or places available for open competition. The advertisement expressly mentioned that the candidates would have to appear in a written test of 'TDC-Part I Standard, comprising of two papers, one paper consisting of the subjects, Physics and Chemistry and the other, Biology and English. It was also mentioned in the advertisement that the candidates would be required to appear at a Viva-voce examination. On 7th July, 1983, the Government of Jammu & Kashmir published a notification called the Jammu & Kashmir Government Medical Colleges (Selection of Candidates for Admission to First Year MBBS Course) Procedure Order 1983. Paragraph 4 of the order which is relevant is as follows:-

"4. Merit:-The inter-se-merit of the candidates shall be determined on the basis of the following:-

(i) Written test ..85 Points

(ii) Viva voce ..15 Points

----- Total 100 Points

-----

The points earmarked for viva-voce will further be subdivided into the following factors:

(a) Aptitude	..8 Points
(b) G.K.GI	..7 Points

-----  
Total .. 15 Points"  
-----

On 26th August 1983, a Selection Committee was constituted consisting of the Chairman of the Jammu and Kashmir Public Service Commission as Chairman and two members, namely, the Principals of the two Government Medical Colleges at Srinagar and Jammu. The quorum for a meeting of the Committee was stipulated as the Chairman and one member. On the same day by another notification it was directed that the Selection Committee should arrange and conduct the written test and evolve its own procedure for appointing examiners and for the conduct of the examination, etc. The Selection Committee held its first meeting on September 2, 1983 when one of the members, the Principal of the Government Medical College, Srinagar informed the Committee that his daughter was one of the candidates and that it would not be desirable for him to be associated, at any stage, with the written test to be conducted by the Committee and further that he would not like to be present when his daughter was interviewed. The Committee took note of the

information and agreed with the suggestion. As the Government had also fixed a quorum for a meeting of the Committee, it was not considered necessary to have a substitute member appointed. Thereafter a detailed procedure was evolved for the written test and interviews. The Chairman was authorised to consult the Chairman of the Jammu & Kashmir Board of School Education and select the required number of examiners and pacesetters. The written test was conducted simultaneously at Jammu & Kashmir on September 22, 1983. The written test was followed by interviews from September 22, 1983 to October 11, 1983. One important factor which requires to be mentioned here is that the marks secured in the written test by the respective candidates was not available to the Selection Committee when the Committee interviewed the candidates. The Committee met again on October 25, 1983 by which time the results of the written test were also available. The Selection Committee proceeded with the task of finalising the selection. The selected candidates were sent individual intimations and on December 3, 1983, a notification was published by the Government of Jammu & Kashmir informing the public that the result of the written test/Viva Voce held for admission to the First year of the MBBS Course for the Medical Colleges of the State was available in the offices of the Principals of the Government Medical Colleges at Jammu and Srinagar. Candidates were also told that marks card would be issued on payment of a fee of Rs. 5/- and that any candidate interested in seeing his/her answer book could do so on payment of Rs. 20/- as fee for each paper. Some of the facts mentioned above were taken by us from the counter affidavits filed on behalf of the Government of Jammu & Kashmir and were not admitted by the petitioners. We do not however have the slightest doubt about the correctness of these facts, as they are fully supported by contemporaneous official records.

The petitioners have filed these writ petitions impugning the selection made by the Committee on various grounds. In their petitions, they have indulged in several allegations and insinuations for which there is no basis whatsoever. Shri Anil Dev Singh, learned counsel for some of the petitioners raised three contentions. The first was that the entire selection was vitiated by the presence on the Committee of the father of a candidate. The second contention was that the entire procedure was bad as the marks obtained by the candidates at the qualifying examination (TDC-Part I Medical Group) were not taken into account and not given any weightage whatever. The third contention was that the viva- voce test provided for 7 points for general knowledge and general intelligence whereas it would have been more appropriate to test the general knowledge and general intelligence of candidates by holding a written test instead of a viva voce test. Shri Anil Dev Singh also generally submitted that the viva voce test was a mere manoeuvre designed to bring in candidates who had fared badly in the written test. Shri A.K. Sen, learned counsel who appeared for some of the other petitioners made only one submission and it was that 'the viva voce test had worked in an unreasonable and arbitrary manner, in fact and as a matter of principle'. He elaborated the submission by arguing that though the two papers in the written test carried 550 marks, they were reduced to 85 points as against 15 points for the viva voce test. The result, according to him, was that candidates who got a lead of 20-25 marks in the written test had to bow down to candidates who got a lead of 3 or 4 points in the viva voce test as the marks obtained in the written test were reduced to

points in the ratio of 50 to

85. Shri Sen also submitted that the questions put to the candidates at the interview were not designed to test either aptitude or general knowledge or general intelligence and for that reason, the selection was vitiated. He suggested that the final results bore eloquent testimony to the injustice done to the minority community in the State.

We find no substance whatever in any of the submission made by Shri Anil Dev Singh and Shri A.K. Sen. We may straightway observe that the insinuation that the interviews were so conducted as to do injustice to the minority community appears to us to be uncharitable and Impetuous. We find that there are candidates belonging to both the majority and the minority communities among the candidates who were able to secure admission because of the points scored by them in the viva voce test, as also amongst the candidates who failed to secure admission because of their low score in the viva voce test. The inconsiderateness of the allegation is evident from the fact that the marks obtained by the candidates in the written test were not even available to the Selection Committee when they conducted the viva voce test. This circumstance is sufficient to repudiate the broad allegation freely made by Shri Anil Dev Singh that the viva voce test was designed to facilitate the selection of candidates who had fared badly in the written test.

The submission that the questions put to the candidates at the interview were not designed to test either the aptitude, general knowledge or general intelligence of the candidates is equally without substance. In the writ petitions, no such averment was made and no instances were given. In the petition a general allegation was made that the viva voce test had been abused to dilute the otherwise high merit of the petitioners. On behalf of the respondents, one of the members of the Selection Committee, Dr. S.L. Verma, Principal of the Government Medical College, Jammu filed a counter-affidavit in which, he stated '..... Not less than six minutes were spent on each candidate though in certain cases interview lasted for more than ten minutes. All the candidates were fully and fairly assessed and it is denied that the candidates were interviewed only to manipulate the results. The candidates were questioned by the members of Selection Committee only in respect of factors of interview prescribed in SRO-380 dated 7-7-1983 and the entire process was above board and extremely fair. I submit that the result of the written test became available to the members of the selection committee only after the interviews had been completed', After this counter-affidavit had been filed, some of the petitioners chose to file 'rejoinder affidavits' to suggest that their interviews lasted for about two to three minutes only and that questions relating to the aptitude, general knowledge or general intelligence of the candidates were not asked. It was stated that some of the candidates were asked the names and occupations of their parents or brothers, and some were asked why he or she wanted to become a doctor and so on. Aarti Kaul stated in her affidavit that she was also asked to give an example of Collard (?) of the human body, that she replied that it was blood and she was then asked what the constitution of blood was, to which she replied "Plasma Haemoglobin RBC Serum". Rajesh Gupta, another candidate, stated that his interview lasted for two or three minutes and apart from questions relating to the name and occupation of his father and brothers, he was also asked to define 'absolute zero' and 'international ampere'. He answered both the questions. He claimed that he was asked no que-

stion relating to aptitude, general knowledge or general intelligence.

We are of the view that there is no genuine basis for any complaint in regard to the nature of the questions which the candidates were asked in the viva voce test. We accept the statement of D. Verma that the Selection Committee put relevant question to the candidates to test their aptitude, general knowledge and general intelligence. Anyone who has served on a Selection Committee and interviewed candidates knows that a large number of candidates are nervous and in order to put them at ease, it is necessary to ask them to start with, innocuous questions, such as, what is your father's occupation ?, which part of the country do you come from?, what is your mother-tongue? and so on. Such questions are intended to enable the candidate to feel at ease and get over his nervousness. No complaint can surely be made that candidates were put such questions. We also fail to see how any complaint can be made of the fact that questions on science subjects were asked of candidates seeking admission to medical colleges, Surely such questions are at least as good as questions about the name of the capital of an obscure Latin American State or who captained India in the Second test match against Pakistan in 1980. We entertain no doubt that the questions asked were proper and relevant. We add that it is not for the court to sit in judgment over the nature of the questions to be put by the members of the Selection Committee. It is for the members of the Selection Committee to decide what questions they should ask and so long as the questions are not such as to indicate that the interview was nothing but a make-believe, we must allow the matter to rest there. It is not the function of the court to weigh each question to find out the extent to which it is related to aptitude, general knowledge or general intelligence. If the question is not flippant, it is not for the court to say that the question was irrelevant and should not have been asked at an interview. Perhaps irrelevant questions may also be asked to explore the candidate's capacity to detect irrelevancies. It is not for the court to claim to itself the task of determining the nature of the questions to be put to candidates appearing at an interview. The persons constituting the Selection Committee who may generally be assumed to be men of experience and knowledgeable in regard to men and matters may surely be expected to put the right questions. In the absence of malafides, the matter is best left to them.

Mr. Sen made a complaint that the marks obtained in the written test were reduced to points and this had resulted in candidates who had fared well in the interview stealing a march over some candi-

dates who had fared well in the written test. The rules require that points should be awarded for the written test and 15 points for the viva voce test. Therefore, although the written tests carried a total of 550 marks, the marks obtained by each candidate had to be necessarily reduced on the points on the basis that 85 points equalled 550 marks. The grievance is plainly imaginary.

Both Mr. Anil Dev Singh and Mr. A.K. Sen invited our attention to the observations of this court in *Ajay Hastas* case in regard to the desirability of holding viva voce test to select candidates for admission to professional colleges and in regard to the manner of conducting such tests. The Court after referring to the criticism levelled against viva voce test observed: "Now this criticism cannot be said to be wholly unfounded and it reflects a point of view which has certainly some validity" The court then quoted M.P. Sharma on 'Public Administration' in 'Theory and Practice' and Glenn Stahl on 'Public personnel Administration' and observed "But, despite all this criticism, the



oral interview method continues to be very much in vogue as a supplementary test for assessing the suitability of candidates wherever test of personal traits is considered essential. Its relevance as test for determining suitability based on personal characteristics has been recognised in a number of decisions of this court which are binding upon us". The Court then quoted from *Chitra Lakha and Others v. State of Mysore and Others*(2) and *A. Pseriakaruppan v. State of Tamil Nadu & Others*(3) and observed:, "Its is therefore, not possible to accept the contentions of the petitioners that the oral interview test is so defective that selecting candidates for admission on the basis of oral interview in addition to written test must be regarded as arbitrary. The oral interview test is undoubtedly not a very satisfactory test for assessing and evaluating the capacity and calibre of candidates, but in the absence of any better test for measuring personal characteristics and traits, the oral interview test must, at the present stage, be regarded as not irrational or irrelevant though it is subjective and based on first impression, its result is influenced by many uncertain factors and it capable of abuse. We would, however, like to point out that in the matter of admission to college or even in the matter of public employment, the oral interview test as presently held should not be relied upon as exclusive test, but it may be resorted to only as an additional or supplementary test and, moreover, great care must be taken to see that persons who are appointed to conduct the oral interview test are men of high integrity, calibre and qualification". The Court then proceeded to consider whether the allocation of as high percentage as 331/3 of the total marks for the viva voce test did not render the admission procedure arbitrary. It was held that it did make the selection procedure arbitrary but even so the selection was not set aside as 18 months had elapsed since the selection and no mala fides had been established. The court finally considered the argument that each candidate was not interviewed for more than two or three minutes and relevant questions were not asked. Taking note of the circumstance that no affidavit had been filed either by a member of the Selection Committee or by any other officer who was present at the interview, it was thought that the allegations of the petitioners had to be accepted. It was then said that "If that be so, the oral interview test must be held to be vitiated and the selection made on the basis of such test must be hold to be arbitrary". However, for the reason that 18 months had already elapsed, it was not thought proper to strike down the selections already made. Thereafter the following observations were made:

"We may point out that, in our opinion, if the marks allocated for the oral interviewed not exceed 15 % of the total marks and the candidates are properly interviewed and relevant questions are asked with a view to assessing their suitability with reference to the factors required to be taken into consideration, the oral interview test would satisfy the criterion of reasonableness and non-arbitrariness. We think that it would also be desirable if the interview of the candidates is tape-recorded, for in that even there will be contemporaneous evidence to show what were the questions asked to the candidates by the interviewing committee and what were the answers given and that will eliminate a lot of unnecessary controversy besides acting as a check on the possible arbitrariness of the interviewing committee".

It would be noticed that most of the observations were made with a view to enable the Government to devise a selection procedure which would be above reproach. It was never intended to lay down any hard and fast rules. In the very nature of things it would not be within the province or even the competence of the Court and the Court would not venture into such exclusive thickets to discover

ways out, when the matters are mere appropriately left to the wise expertise of medical academicians interested in the quality and integrity of medical education and public administrators conversant with various administrative and socioeconomic problems, needs and requirements. The Court's duty lies in preventing arbitrariness and denial of equal opportunity. The question as to the subjects in which an entrance test may be held is hardly a matter for the court, unless, of course, the subjects are so arbitrarily chosen as to have not the slightest connection with the object of the examination. Such a situation is not likely to arise as the authorities may be expected to act reasonably. Again it is not for the court to lay down whether an interview test should be held at all or how many marks should be allotted for the interview test. Of course, the marks must be minimal so as to avoid charges of arbitrariness but not necessarily always. There may be posts and appointments where the only proper method of selection may be by an interview test. Even in the case of admission to higher degree courses, it may some times be necessary to allot a fairly high percentage of marks for the interview test. For admission to a Ph. D course, for example, candidates may have to be consummately interviewed, each of them for a few hours, perhaps, before any decision can be taken as to who may be admitted. That is why we say rigid rules cannot be laid in these matters, and not by Courts. The expert bodies are generally the best judges, All that we may say is that allocation of a high percentage of marks for admission to under-Graduate courses should be avoided as there is a risk of a certain amount of arbitrariness which may lead to frustration of the very object of the selection and disrepute of the system. Courts interfere when the risk of arbitrariness is so high that arbitrariness is inevitable. Again the court is not the best judge of what questions may be asked at the interview. As mentioned by us earlier, all that is necessary is that the questions should not be a mere pretence.

All that we have said above is only to supplement what has been said in Ajay Hasia's case and in the case of Lila Dhar vs. State of Rajasthan<sup>(1)</sup>. In the latter case after referring to the Kothari Committee's report on Recruitment Policy and Selection Methods, we said:

"It is now well recognised that while a written examination assesses a candidate's knowledge and intellectual ability, an interview test is valuable to assess a candidate's overall intellectual and personal qualities. While a written examination has certain distinct advantage over the interview test there are yet no written tests which can evaluate a candidates's initiative, alertness, resourcefulness, dependableness, cooperativeness, capacity for clear and logical presentation, effectiveness, in discussion, effectiveness in meeting and dealing with others, adaptability, judgment, ability to make decision, ability to lead, intellectual and moral integrity. Some of these qualities may be evaluated, perhaps with some degree of error, by an interview test, much depending on the constitution of the interview Board."

We then referred to Glenn Stahl on 'Public Personnel' Administration and the United Nations Handbook on Civil Service Law and Practice". We further said:

"Thus, the written examination assesses the man's intellect and the interview test the man himself and "the twain shall meet" for a proper selection. If both written examination and interview test are to be essential features of proper selection, the

question may arise as to the weight to be attached respectively to them. In the case of admission to a college, for instance, where the candidate's personality is yet to develop and it is too early to identify the personal qualities for which greater importance may have to be attached in later life, greater weight has per force to be given to performance in the written examination. The importance to be attached to the interview test must be minimal. That was what was decided by this Court in *Periakaruppan v. State of Tamilnadu, Ajay Hasia etc. v. Khalid Mujib Sehrawardi & Ors. etc.*, (supra) and other cases. On the other hand in the case of services to which recruitment has necessarily to be made from persons of mature personality, interview test may be the only way, subject to basic and essential academic and professional requirements being satisfied. To subject such persons to a written examination may yield unfruitful and negative results, apart from its being an act of cruelty to those persons. There are, of course, many services to which recruitment is made from younger candidates whose personalities are on the threshold of development and who show signs of great promise, and the discerning eye in an interview test, catch a glimpse of the future personality.

In the case of such services, where sound selection must combine academic ability with personality promise, some weight has to be given, though not much too great weight, to the interview test. There cannot be any rule of thumb regarding the precise weight to be given. It must vary from service to service according to the requirements of the service, the minimum qualifications prescribed, the age group from which the selection is to be made, the body to which the task of holding the interview test is proposed to be entrusted and a host of other factors. It is a matter for determination by experts. It is a matter for research. It is not for Courts to pronounce upon it unless exaggerated weight has been given with proven or obvious oblique motives. The Kothari Committee also suggested that in view of the obvious importance of the subject, it may be examined in detail by the Research Unit of the Union of Public Service Commission."

At this juncture while we are quoting from the earlier decision of the court in *Liladhar v. State of Rajasthan*, we may as well refer to the criticism of Shri Anil Dev Singh that block marks should not have been allocated for general knowledge and general intelligence. Our observations in *Liladhar's* case, which we have extracted below, answer this point also:

"The rules themselves do not provide for the allocation of marks under different heads at the interview test. The criteria for the interview test has been laid down by the rules. It is for the interviewing body to take a general decision whether to allocate marks under different heads or to award marks in a single lot. The award of marks under different heads may lead to a distorted picture of the candidate on occasions. On the other hand the totality of the impression created by the candidate on the interviewing body may give a more accurate picture of the candidate's personality. It is for the interviewing body to choose the appropriate method of marking at the selection to each service. There cannot be any magic formulae in these matters and

courts cannot sit in judgment over the methods of marking employed by interviewing bodies unless, as we said, it is proven or obvious that the method of marking was chosen with oblique motive.

"It is true that in Periakaruppan's case 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".

The criticism that the Selection procedure was bad because the marks obtained by the candidates at the respective qualifying examinations were not taken into account, but only the marks in the written test and the oral test conducted by the Selection Committee, has also no force. We were told that the qualifying examination, that is, the First TDC (Medical Group) examination was held at different times in Jammu and Srinagar. Naturally the question papers, etc. must have been different. The Selection Committee apparently thought that it would be better to have a common entrance test. It appears to us to be a perfectly reasonable procedure. Even otherwise it is always open to a Selection Committee to insist on taking into consideration marks obtained at the examination held by it only and excluding from consideration marks obtained at examinations held by other bodies. We are unable to see anything wrong in this procedure. A similar contention was negatived in *Ajay Hasia's* case also where it was observed:

"It is difficult to appreciate how a procedure for admission which does not take into account the marks obtained at the qualifying examination but prefers to test the comparative merit of the candidates by insisting on an entrance examination can ever be said to be arbitrary".

Two other submissions which were made in the course of the argument may also be disposed of here. One was that general knowledge and general intelligence were not matters to be tested in the viva voce test but should have been tested in a written examination. That is not a matter for this Court to decide. It was a matter for the Selection Committee to decide whether general knowledge and general intelligence could be more appropriately tested in the viva voce test or in the written test. The other submission was that there was delay in the announcement of results and the delay made the selection suspect. We find that there was in fact no delay and we only add that the suspicion, if any, was unfounded.

We finally come to the submission on which Shri Anil Dev Singh laid considerable emphasis, namely, that the entire selection was vitiated by the presence on the Selection Committee of the father of one of the candidates. This was said to be a gross violation of one of the principles of natural justice. The grievance is not real. The Principal of Medical College, Srinagar, whose daughter was a candidate for admission to the Medical College informed the Selection Committee at the very outset about this fact and told them that he would not have anything to do with the written test and would not be present when his daughter was interviewed. The other members of the Selection Committee accepted the suggestion of the Principal and did not think it necessary to address the Government to appoint a substitute member of the Selection Committee since the Government had

fixed the quorum for a meeting of the Selection Committee as the Chairman and one other member and it was possible to have a quorum without the Principal of the Medical College, Srinagar. The procedure adopted by the Selection Committee and the member concerned was in accord with the quite well-known and generally accepted procedure adopted by the Public Service Commissions every where it is not unusual for candidates related to members of the Service Commission or other Selection Committee to seek employment. Whenever such a situation arises, the practice generally is for the member concerned to excuse himself when the particular candidate is interviewed. We notice that such a situation had also been noticed by this court in the case of *Nagarjan v. State of Mysore* (1) where it was pointed out that in the absence of mala fides, it would not be right to set aside the selection merely because one of the candidates happened to be related to a member of the Selection Commission who had abstained from participating in the interview of that candidate. Nothing unusual was done by the present Selection Committee. The girl's father was not present when she was interviewed. She was one among several hundred candidates. The marks obtained by her in the written test were not even known when she was interviewed. And, in fact, we find that as a result of her performance at the interview, she lost rather than gained some places.

Great reliance was placed by the learned counsel on *A.K. Kraipk & Ors. v. Union of India* (2) on the question of natural justice. We do not think that the case is of any assistance to the petitioners. It was a case where one of the persons, who sat as member of the Selection Board, was himself one of the persons to be considered for selection. He participated in the deliberations of the Selection Board when the claims of his rivals were considered. He participated in the decisions relating to the orders of preference and seniority. He participated at every stage in the deliberations of the Selection Board and at every stage there was a conflict between his interest and duty. The court had no hesitation coming to the conclusion that there was a reasonable likelihood of bias and therefore, there was a violation of the principles of natural justice. In the case before us, the Principal of the Medical College, Srinagar, dissociated himself from the written test and did not participate in the proceedings when his daughter was interviewed. When the other candidates were interviewed, he did not know the marks obtained either by his daughter or by any of the candidates. There was no occasion to suspect his bona fides even remotely. There was not even a suspicion of bias, leave alone a reasonable likelihood of bias. There was no violation of the principles of natural justice.

One last submission, which we may note, was that there was a contravention of one of the regulations made by the Indian Medical Council. It was said that the regulation prescribed that the marks obtained at the qualifying examination should be taken into consideration in States having only one Medical College and one University/Board/Examination Body conducting the qualifying examination. This regulation has no application because there are two Medical Colleges in this State. Though only one Board conducted the qualifying examination, the examinations were conducted separately for Jammu and Srinagar areas and on two different occasions. In the second place, these regulations, have been held to be directory and not mandatory by this court in *State of Madhya Pradesh v. Kr. Nivedita Jain*. (1) We have considered the various points raised by the petitioners at some length, we have said so much and we have quoted from the previous judgments of this Court in extense not because we find any substance in any of the contentions, but because these contentions are being repeatedly raised in many such cases and we desire to discourage the raising of unnecessary hope in the minds of the young men and women seeking the aid of courts for admission

into professional colleges, ready as they are to clutch at any straw. We dismiss all the Writ petitions but in the circumstances without costs.

N.V.K.

Petitions dismissed