

Before Permod Kohli, J.

RAM CHANDER,—Petitioner

versus

**MAHARISHI DAYANAND UNIVERSITY, ROHTAK AND
OTHERS,—Respondents**

CWP No. 7050 of 2009

17th September, 2010

Constitution of India, 1950—Art.226—Selection to posts of Lecturers—Selection made on recommendations of Selection Committee without determining inter se merit of candidates—No merit list prepared on basis of performance in interview—Neither any marks awarded for interview nor candidates graded in any other manner—Selection made without applying any fair, valid and rational criteria is not sustainable in law—Petition allowed, selection of respondents 3 & 4 quashed.

Held that the Selection Committee has not prepared any merit as per reply to paragraph 2 of the application for seeking information under Right to Information Act. This clearly establishes that the selection has been made without any fair, valid and rational criteria being adopted or even assessing the merits of the appearing candidates. It would not be wrong to infer that the entire selection is a farce and has been made by adopting “Pick and Choose” method. Selection made in this manner cannot be sustained even if the selectees are the best suited candidates for the job.

(Para 6)

J. V. Yadav, Advocate, *for the petitioner.*

Anurag Goyal, Advocate, *for the respondents.*

PERMOD KOHLI, J. (ORAL)

(1) Keeping in view the controversy involved and with the consent of learned counsel for the parties, this petition is disposed of at motion stage itself.

(2) Respondent No. 1-University advertised five posts of Lecturers in Institute of Management Studies and Research,—*vide* Advertisement No. 1 of 2008. Three out of five posts were reserved for Scheduled Caste candidates. Without completing the process of selection, the posts were re-advertised,—*vide* advertisement No. 3 of 2008. It was stipulated in the subsequent advertisement that the candidates who had applied in response to the earlier advertisement need not apply again. The petitioner had applied in response to the first advertisement. It is stated that the petitioner is fully eligible. Besides academic qualifications, the petitioner is LL.B. Professional, B.Ed and has also passed tests like UGC Test for Junior Research Fellowship and Eligibility for Lectureships in the year 1996, State Level Eligibility Test for Lectureship from Kurukshetra University, Kurukshetra in the year 1995 and UGC-NET examination for eligibility for Lectureship in the year 2004. The petitioner has also worked as Marketing Manager in BM Tours and Travels Pvt. Ltd., New Delhi. The petitioner was called for interview,—*vide* letter dated 19th September, 2008. Interview was held on 6th October, 2008. On completion of the process of selection, private respondents were selected for the post under the Scheduled Caste category. It appears that being not satisfied with the outcome of the selection, the petitioner sought information under the Right to Information Act in respect of the marks obtained by the candidates in the interview and merit position etc.—*vide* application dated 2nd January, 2009. Official respondents furnished the information,—*vide* its reply dated 19th January, 2009 (Annexure P-10). From the information furnished by the respondents, it has been revealed that no merit list was prepared on the basis of the performance in the interview and selection has been made without determining the *inter se* merit and without applying any rational and valid criteria.

(3) I have heard learned counsel for the parties at length. It is true that selection body is entitled to formulate its own criteria for making selection, if not otherwise provided for under any rules or laid down guidelines. However, the criteria has to be fair, rational and non-arbitrary. From the written statements filed, it is evident rather an admission on the part of the respondents that no statutory criteria exists nor there is any laid down criteria for making selection. It has been stated in the reply that

the selection has been made on the basis of the recommendation of the Selection Committee. On receipt of the recommendation from the Selection Committee, the Executive Council of the University adopted a resolution approving the recommendation of the Selection Committee. It has also been disclosed that as many as 58 applications were received for the five posts, 21 candidates were found eligible. According to the information furnished to the petitioner, all the eligible candidates were called for interview for 6th October, 2008 excluding the ESM Category. 17 candidates appeared in interview. The Selection Committee did not prepare any merit list of the candidates on the basis of their performance in the interview and just recommended two names i.e. respondents No. 3 and 4 for appointment. Record of selection was called for. From the record of selection, it is evident that neither any marks were awarded for interview and/or academic merit nor the candidates were graded in any other manner. How and what mode was adopted for selection seems to be a close secret. No valid, rational and fair criteria was laid down or adopted for making selection nor any record of *inter se* merit of the appearing candidates has been maintained.

(4) In the reply, it is admitted that no merit list was prepared. Without preparing the *inter se* merit of the candidates, how private respondents were assessed better than the petitioner since no marks are disclosed anywhere nor the same are revealed from the record of selection. Reply to question No. 2 given under the Right to Information Act establishes the total arbitrariness on the part of the respondent/selection body. Question No. 2 of the petitioner and response thereto are reproduced here under :—

Question	Answer
2. Those supply the merit list with details of marks awarded on account of merits and in interview to the selection and non-selected candidates for the post of Lecturer of Psychology and Management under advertisement No. 1/2008 and 3/2008.	2. Proceedings of the Committee is/are attached herewith wherein the Selection Committee has not prepared any merit list.

(5) Above answer leaves no room to speculate about the manner and method of selection rather it is abundantly clear that selection has been made against all settled cannons of service jurisprudence. How the selection can be made without assessing the *inter se* merit of the candidates is sole question which has come up for consideration in the present case.

(6) Admittedly, the Selection Committee has not prepared any merit as per reply to paragraph 2 of the application for seeking information under Right to Information Act. This clearly establishes that the selection has been made without any fair, valid and rational criteria being adopted or even assessing the merits of the appearing candidates. It would not be wrong to infer that the entire selection is a farce and has been made by adopting "Pick and Choose" Method. Selection made in this manner cannot be sustained even if the selectees are the best suited candidates for the job.

(7) Petition is accordingly allowed with the following directions :—

- (i) Selection/appointment of respondents No. 3 and 4 is hereby quashed ;
- (ii) The University will formulate a rational, fair, non-arbitrary and valid criteria for the purpose of making selection to the post in question and notify the same not only within the University Campus, but even in public by issuing the advertisement in one English newspaper and one vernacular having circulation in the concerned area ;
- (iii) Fresh selection shall be made in accordance with the notified criteria within a period of four months. Petitioner and all other candidates who were eligible at the time of advertisement shall have the right to participate in the selection process notwithstanding that thereafter anyone of them has been rendered ineligible on account of over-age etc.