

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS  
CIVIL APPEAL NO.633 OF 2007

STATE OF H.P. & ORS. Petitioner(s)

VERSUS

RAVINDER BALORIA & ORS. Respondent(s)

WITH Civil Appeal NO. 5055 of 2008  
(With office report)

Date: 20/09/2011 This Appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. PATNAIK  
HON'BLE MR. JUSTICE H.L. GOKHALE

For Appellant(s) Mr. Naresh K. Sharma, Adv.

For Respondent(s) Mr. E.C. Vidya Sagar, Adv. (NP)

Respondent-In-Person (NP)

Ms. K. Sharda Devi, Adv.

UPON hearing counsel the Court made the following  
O R D E R

C.A. No. 633 of 2007 is allowed in terms of the  
signed order.

C.A. No.5055 of 2008 is delinked for being listed  
tomorrow.

( Ravi P. Verma ) ( M.S. Negi )  
AR-cum-PS Court Master  
[Signed order is placed on the file]  
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 633 OF 2007

State of Himachal Pradesh & Ors .....Appellants

Versus

Ravinder Baloria & Ors. ....Respondents

O R D E R

This is an appeal by special leave under Article 136  
of the Constitution of India against the common judgment  
dated 12th January, 2006 by a Division Bench of the High

Court of Himachal Pradesh in CWP No.722/2004 and other connected matters.

2. We have heard Mr. Naresh K. Sharma, learned counsel for the appellant-State. None appears for the respondents, despite notice.

3. The facts very briefly are that on 18th January, 2004, the State Government decided to conduct a common entrance test for admissions to two years Junior Basic Teacher (JBT) course as the intake capacity of candidates had increased from 1055 to 1800 candidates. The educational qualification for the candidates who were to take the common entrance test was prescribed as Senior Secondary School Certificate or Intermediate or its equivalent 10+2 and the age was fixed as between 17 to 28 years as on 31.12.2003 with relaxation of five years for reserved category candidates. Pursuant to the aforesaid decision, an advertisement was published in the newspaper inviting applications and the general rules/guidelines for the entrance test were indicated in the advertisement. It was stated in the advertisement that the marks would be distributed as follows: Hindi - 20 marks, English - 20 marks, Numerical Aptitude - 20 marks, General Awareness - 15 marks, Personal Interview - 15 marks, Special Marks for candidates belonging to rural areas - 10 marks. In response to the advertisement, candidates submitted their applications. A written test was conducted on 18.4.2004. The results of the entrance test were published in August, 2004 and candidates were called for interview.

4. One Ravinder Baloria, however, filed a writ petition CWP No.722/2004 before the High Court in September, 2004 contending that the 10 marks awarded to candidates belonging to rural areas were not justified. Although the

appellant contested the writ petition, the High Court held that the award of 10 marks to candidates belonging to rural areas was not justified. The appellant challenged the judgment and order of the High Court in CWP No.722/2004 before this Court by way of a special leave petition but the same was dismissed.

5. One Ravinder Sharma also filed a writ petition in October, 2004 before the High Court numbered as CWP No.828/2004 contending that the award of 15 marks for personal interview was also not justified. The appellant

filed a supplementary affidavit before the High Court in CWP No.722/2004 and sought to justify the award of 15 marks for personal interview on the ground that there were more than 2000 vacancies of JBTs and the State had a capacity of training nearly 1800 persons in the JBT course and that

trained JBTs are normally granted an assured employment/recruitment after their training is over. The

appellant stated in the said supplementary affidavit that no interview of the trained teachers would be held before their appointments and, therefore, allotment of 15 marks for interview for JBT course was necessary before their appointment as teachers under the State Government. In the

supplementary affidavit, the appellant emphatically stated that it was essential and appropriate to adjudge the aptitude and suitability of each candidate for the job at the time when selection for the JBT course was to take place. The appellant also stated in the supplementary

affidavit that the Government had decided to constitute a Committee comprising the Deputy Commissioner of the District as its Chairman, Deputy Director Education (Primary) of the District and Principal, District Institutes of Education and Training (DIET) as members to hold the interviews.

6. In the supplementary affidavit, the appellant also gave the break up of the 15 marks allotted for personal

interview as follows:

- (i) Marks (maximum) Conversion to 5% of total % of marks obtained in 10+2 examination
- (ii) 5 marks For extra-curricular activities (i.e. cultural, sports, debates & dramatics etc.)
- (iii) 2 marks For knowledge & customs of H.P.
- (iv) 3 marks Shall be awarded by the Committee as its own discretion keeping in view the overall personality and mental aptitude of the candidates.

7. The contention of the appellant before the High Court was that considering the break up of marks for interview as aforesaid and considering the fact that the Committee with Deputy Commissioner of the District as its Chairman, there would be very little scope for arbitrariness in selection of candidates for the JBT course. The High Court, however, rejected the contention of the appellant and relying on its earlier judgment in the case of Rajiv Sharma Vs. State of Himachal Pradesh & Ors. (CWP No.611/2004 decided on 6.5.2005) as well as judgment of this Court in Mridul Dhar (Minor) & Anr. Vs. Union of India & Ors., (2005) 2 SCC 65, held that so far as admission to educational course is concerned, the weightage of marks given for interview should be as low as possible.

The High Court, in particular, held that this Court has drawn a clear cut distinction between the weightage of marks to be given for interview for admissions to educational courses and the weightage of marks when the interviews are conducted for recruitment to services.

8. We fail to appreciate as to why the High Court, having held that there is a distinction between the weightage of marks for interviews given to candidates seeking admission to educational courses and for candidates seeking recruitment to services, did not consider the fact

that after the JBT course, in the present case, the candidates were to be almost automatically recruited as teachers under the State Government, and the various aptitude and the suitability of the candidates for teaching work were also to be tested in a personal interview of the candidates.

9. Moreover, as has been noticed by the High Court itself, in *Koshal Kumar Gupta & Ors. Vs. State of Jammu & Kashmir & Ors.*, AIR 1984 SC 1056, this Court upheld the allocation of 15 marks for interview for admission to engineering college. The reasons given by this Court in

the aforesaid case were that the 15 marks were split up under four heads, namely, (i) Science - 5 marks, (ii) General Knowledge - 4 marks, (iii) Curricular Activities - 3 marks, (iv) Personality Test - 3 marks and the method and number of marks assigned for viva-voce test were not such as to confer arbitrary, unguided and uncanalised power in those conducting the viva-voce test. In the present case,

as has been pointed out in the supplementary affidavit of the appellant before the High Court, out of a total 15 marks allotted for interview, 5 marks were allotted for the marks obtained by the candidate in 10+2 examination, 5 marks were allotted for extra-curricular activities such as cultural, sports, debates and dramatics etc., 2 marks for knowledge of customs of Himachal Pradesh and only 3 marks were allotted for overall personality and mental aptitude of the candidates. In other words, only 5 (3+2) marks were

left to the discretion of the Committee depending on the performance of the candidate before the Committee.

Moreover the Committee comprised of the Deputy Commissioner of the concerned District as the Chairman, Deputy Direction Education(Primary) of the District and Principal (DIET) of the District as its members. The composition of the Committee is as such as to give very little room for

arbitrariness in the selection process.

10. We are, thus, of the considered opinion that the High Court was not right in holding that allotment of 15% marks for personal interview was not justified and was arbitrary. We, accordingly, set aside the impugned judgment in so far it relates to award of 15% marks for personal interview and dismiss the writ petition filed by the respondents challenging the award of 15% marks for personal interview. Accordingly, appeal is allowed.

.....J.  
( A.K. PATNAIK )

New Delhi;  
September 20, 2011.

.....J.  
( H.L. GOKHALE )