Ajith George Vs State of Kerala

Court: High Court Of Kerala

Date of Decision: July 25, 2006

Acts Referred: Constitution of India, 1950 â€" Article 14
Kerala Self Financing Professional Colleges Prohibition of Capitation Fees and Procedure for Admission and Fixation of Fees Act, 2004 â€" Section 3, 3(1), 3(2), 3(3), 3(4)

Citation: (2006) 3 KLT 743

Hon'ble Judges: S. Siri Jagan, J

Bench: Single Bench

Advocate: Kurian George Kannamthanam, for the Appellant; C.P. Sudhakara Prasad, General and Viju Abraham, Government Pleader, for the Respondent

Final Decision: Dismissed

Judgement

S. Siri Jagan, J.
In all these Writ Petitions, a common question of law has been raised and therefore these Writ Petitions are being

disposed of by a common judgment.

2. The petitioners in these Writ Petitions are students who aspire for admission to Engineering Degree courses in management quota in various self-

financing colleges in Kerala. They challenge a condition in the prospectus for admission to professional degree courses in Kerala during the year

2006-2007. The impugned clause is 9.7.5 of the prospectus. The said clause lays down that to qualify in the entrance examination and thereby

become eligible to figure in the rank list, a candidate has to secure a minimum of 10 marks each in paper 1 and paper 2. They challenge this clause

on various grounds like legislative competence for the State Government to make a law regarding fixation of higher standards for technical

education, power to disqualify any candidate on the basis of marks in the entrance test, discrimination as between the petitioners on one hand and

students getting admission through NRI quota and on the basis of test conducted by the managements'' consortium on the other and non-

application of mind, while incorporating the said clause.

3. According to the petitioners, the minimum educational qualifications for admission to technical courses have been prescribed by the All India

Council for Technical Education, (AICTE) ie., a pass in the 10+2 examination with physics and mathematics as compulsory subjects along with

any one of the subjects of chemistry/bio-chemistry/computer science/biology, which eligibility criteria has already been mentioned in Clause 6.2.2

of the prospectus. When the AICTE has prescribed the minimum educational qualifications, the State Government does not have the legislative

competence to fix a higher standard for admission to technical courses in Kerala. They would submit that by virtue of Entry 66 of List I of

Schedule 7 of the Constitution of India, the power to fix standards for technical education is specifically with the Union Government and the Union

Government has exercised such legislative powers by prescribing the standards as per the All India Council for Technical Education Act. Since the

power of the State to legislate on education under Entry 25 of List III of Schedule 7 of the Constitution is subject to Entry 66 in List I, the

legislative competence of the Government of Kerala to prescribe such a condition as per Clause 9.7.5 of the prospectus is impliedly excluded. If

the prescription contained in Clause 9.7.5 is an eligibility criteria, that should have been common to all the candidates who aspire for admission and

since in respect of SC/ST candidates, children and wards of NRI''s and candidates who secure admission through common entrance tests

conducted by the managements'' consortium do not have to comply with the said condition, the prescription is discriminatory and violative of the

fundamental rights of the petitioners. The role of Entrance Commissioner is only to rank the entire candidates who appeared for the common

entrance test in the order of their marks and he cannot exclude any candidate from the list on the ground that any candidate has failed to score

certain prescribed minimum marks. They also point out an anomaly in so far as the candidate who secured very high mark in one of the papers and

fails to score the minimum of 10 marks in another paper he would be excluded from the rank list whereas a candidate who secures the bare

minimum of 10 marks in both papers would be included and be eligible for admission. Further, it is contended that altogether about 33,000

students have been disqualified on the basis of this condition, as a result of which, thousands of seats would lie vacant in various colleges imparting

technical education which would show lack of application of mind while including that condition in the prospectus. On these grounds, the

petitioners seek the following reliefs.

(i) to issue a writ or certiorari or other appropriate order, or direction to quash, 9.7.5 stated in Ext.P2 of the prospectus issued by the Government

for the common entrance test for2006:

(ii) to declare that the Government has no powers to fix any eligibility criterion on the basis of the test other than what is prescribed by the

A.I.C.T.E.

(iii) to issue a writ of mandamus or other appropriate order, or direction to direct the 2nd respondent to publish a fresh rank list included those

candidates disqualified by virtue of Clause 9.7.5. of the prospectus.

(iv) to issue a writ of mandamus or other appropriate order or direction to direct the 2nd respondent to include the names of the petitioners in the

rank list prepared by the Commissioner, and gi ve them their ranks at par with those who get the same total marks and who are already included in

the rank list.

4. On the other hand, the learned Advocate General who appeared on behalf of the State stoutly defended the said clause, arguing that the State

has legislative competence to include the same in the prospectus and the inclusion of such a clause in the prospectus is perfectly in keeping with the

principles laid down by the Supreme Court of India in various decisions relating to admissions to professional colleges. He has taken me through

those decisions as well.

5. I have considered the rival contentions in detail.

6. The need for prescribing adequate minimum standards for professional education in the State cannot be over emphasized in the present day

context." The students who are to obtain these professional degrees are the persons who are expected to develop the infrastructural facilities of the

State in future. That being so, the development of the nation as a whole depends on their competence as professionals. If persons who do not have

the required competence pass out from the colleges and join the mainstream in excess of those who do have adequate competence, then, the

overall competence of the system itself would adversely suffer, which would result in the nation itself lagging far behind other nations in various

technical fields. Since such a competency would affect the development of the nation and international stature of our nation, it is imperative that

adequate minimum standards are prescribed in professional education in the country, not to separately mention the State. In that back drop, let me

examine the contentions of the parties in detail.

7. I feel that I need not labour much on these aspects since every aspect raised by the petitioners in these cases are directly or indirectly covered

by various decisions of our Supreme Court. First of all, the need for admissions to professional courses on the basis of merit, has been emphasized

by the Supreme Court, vis-a-vis the necessity to give autonomy to the self financing colleges in the decision of T.M.A. Pai Foundation and Others

Vs. State of Karnataka and Others, are particularly on point. The same may be extracted with advantage here.

58. For admission into any professional institution, merit must play an important role. While it may not be normally possible to judge the merit of

the applicant who seeks admission into a school, while seeking admission to a professional institution and to become a competent professional, it is

necessary that meritorious candidates are not unfairly treated or put at a disadvantage by preferences shown to less meritorious but more influential

applicants. Excellence in professional education would require that greater emphasis be laid on the merit of a student seeking admission.

Appropriate regulations for this purpose may be made keeping in view the other observations made in this judgment in the context of admissions to

unaided institutions.

59. Merit is usually determined, for admission to professional and higher education colleges, by either the marks that the student obtains at the

qualifying examination or school leaving certificate stage followed by the interview, or by a common entrance test conducted by the institution, or in

the case of professional colleges, by Government agencies.

xxx xxx xxx

68. It would be unfair to apply the same rules and regulations regulating admission to both aided and unaided professional institutions. It must be

borne in mind that unaided professional institutions are entitled to autonomy in their administration, while, at the same time, they do not forgo

ordiscard the principle of merit. It would therefore, be permissible for the university or the Government, at the time of granting recognition to

require a private unaided institution to provide for merit-based selection while, at the same time, giving the Management sufficient discretion in

admitting students. This oan be done through various methods. For instance, certain percentage of the seats can be reserved for admission by the

Management out of those students who have passed the common entrance testheld by itself or by the State/University and have upgraded to the

college concerned for admission while the rest of the seats may be filled up on the basis of the counselling by the State agency. This will incidentally

take care of poorer backward sections of the society. The prescription of percentage for this purpose has to be done by the Government

according to the local needs and different percentage can be fixed for minority unaided and non-minority unaided and professional colleges, the

same principles may be applied to other non-professional but, unaided educational institutions viz., graduation and post graduation non professional

colleges or institutes.

emphasis supplied

From these paragraphs it can be seen that the Supreme Court itself, while recognising the necessity to grant autonomy in administration including

admission of the students, emphasized the necessity to adhere to the selection of students strictly on the principle of merit. It is now widely

accepted both by the Supreme Court of India and the Government that because of the lack of uniformity in the courses of study, quality of

teaching, standard of assessment etc. in different Universities/Boards the acceptable mode of assessing the competence/merit of candidate applying

for admission to professional courses is by conducting a common entrance examination. By conducting common entrance test the necessity to

prescribe passing marks or minimum qualifying marks have also been judicially recognised. This particular aspect has been elaborately discussed

by the Supreme Court of India in the decision of Dr Preeti Srivastava and Another Vs. State of M.P. and Others, are particularly relevant.

27. When a common entrance examination is held foradmission to post-graduate medical courses, it is important that passing marks or minimum

qualifying marks are prescribed for the examination. It was however, contended before us by learned Counsel appearing for the State of Madhya

Pradesh that there is no need to prescribe any minimum qualifying marks in the common entrance examination Because all the candidates who

appear for the common entrance examination have passed the M.B.B.S. Examination which is an essential pre-requisite for admission to post-

graduate medical courses. The PGMEE is merely for screening the eligible candidates.

28...A common entrance examination, therefore, provides a uniform criterion for judging the merit of all candidates who come from different

universities. Obviously, as soon as one concedes that there can be differing standards of teaching and evaluation in different universities, one cannot

rule out the possibility that the candidates who have passed the M.B.B.S examination from a university which is liberal in evaluating its students,

would not, necessarily, have passed, had they appeared in an examination where a more strict evaluation is made.Similarly, candidates who have

obtained very high marks in the M.B.B.S examination where evaluation is liberal would have got lesser marks had they appeared for the

examination of a university where stricter standards were applied. Therefore, the purpose of such a common entrance examination is not merely to

grade candidates for selection. The purpose is also to evaluate all candidates by a common yardstick.One must, therefore, also take into account

the possibility that some of the candidates who may have passed the M.B.B.S examination from more ""generous"" universities, may not qualify at

the entrance examination where a better and uniform standard for judging all the candidates from different universities is applied. In the interest of

selecting suitable candidates for specialised education, it is necessary that the common entrance examination is of a certain standard and qualifying

marks are prescribed for passing that examination.This alone will balance the competing equities of having competent students for specialised

education and the need to provide for some room for the backward even at the stage of specialised post-graduate education which is one step

below the super specialities.

29. The submission, therefore, that there need not be any qualifying marks prescribed for the common entrance examination has to be rejected....

emphasis supplied

Although these observations relate to admission to post graduate medical courses, the principles would apply with equal vigour to admissions to

other courses through common entrance examinations. As such, without an iota of doubt, it is clear that the Supreme Court has accepted the

competency of the State to prescribe pass marks or minimum qualifying marks for inclusion in the rank list of candidates in the common entrance

test. Therefore, clearly, if the State, in the prospectus, prescribes that, for qualifying for admission to the professional courses in a State, the

candidates should have secured a particular minimum marks in the entrance test also, it cannot be stated to be without competence, unreasonable

or discriminatory.

8. In fact, the Supreme Court itself had examined the legislative competence of the State to prescribe such higher standards than what have been

prescribed by the A.I.C.T.E. in the decision of State of Tamil Nadu and Another Vs. S.V. Bratheep (Minor) and Others, of the said decision deal

with the point which read thus:

10. Entry 25 of List III and Entry 66 of List I have to be read together and it cannot be read in such a manner as to form an exclusivity in the

matter of admission but if certain prescription of standards have been made pursuant to Entry 66 of List I, then those standards will prevail over the

standards fixed by the State in exercise of powers under Entry 25 of List III insofar as they adversely affect the standards laid down by the Union

of India or any other authority functioning under it. Therefore, what is to be seen in the present case is whether the prescription of the standards

made by the State Government is in any way adverse to, or lower than, the standards fixed by the AICTE. It is no doubt true that the AICTE

prescribed two modes of admission - One is merely dependent on the qualifying examination and the other dependent upon the marks obtained at

the Common Entrance Test. The appellant in the present case prescribed the qualification of having secured certain percentage of marks in the

related subjects which is higher than the minimum in the qualifying examination in order to be eligible for admission. If higher minimum is prescribed

by the State Government than what had been prescribed by the AICTE, can it be said that it is in any manner adverse to the standards fixed by the

AICTE or reduces the standard fixed by it? In our opinion, it does not. On the other hand, if we proceed on the basis that the norms fixed by the

AICTE would allow admission only on the basis of the marks obtained in the qualifying examination the additional test made applicable is the

common entrance test by the State Government. If we proceed to take the standard fixed by the AICTE to be the common entrance test then the

prescription made by the State Government of having obtained certain marks higher than the minimum in the qualifying examination in order to be

eligible to participate in the common entrance test is in addition to the common entrance test.In either event, the streams proposed by the AICTE

are not belittled in any manner. The manner in which the High Court has proceeded is that what has been prescribed by the AICTE is inexorable

and that that minimum alone should be taken into consideration and no other standard could be fixed even the higher as stated by this Court in Dr

Preeti Srivastava and Another Vs. State of M.P. and Others, . It is no doubt true as noticed by this Court in Adhivaman ''s case AIR 1995 SCW

21179 that there may he situations when a large number of seats may fall vacant on account of the higher standards fixed. The standards fixed

should always be realistic which are attainable and are within the reach of the candidates. It cannot be said that the prescriptions by the State

Government in addition to those of AICTE in the present case are such which are not attainable or which are not within the reach of the candidates

who seek admission for engineering colleges.It is not very high percentage of marks that has been prescribed as minimum of 60% downwards but

definitely higher than the mere pass marks. Excellence in higher education is always insisted upon by series of decisions of this Court including Dr.

Preeti Srivastava''s case If higher minimum marks have been prescribed. it would certainly add to the excellence in the matter of admission of the

students in higher education.

11. Argument advanced on behalf of the respondents is that the purpose of fixing norms by the AICTE is to ensure uniformity with extended

access of educational opportunity and such norms should not be tinkered with by the State in any manner. We are afraid, this argument ignores the

view taken by this Court in several decisions including Dr. Preeti Srivastava''s case that the State can always fix a further qualification or additional

qualification to what has been prescribed by the AICTE and that proposition is indisputable. The mere fact that there are vacancies in the colleges

would not be a matter which would go into the question of fixing the standard of education. Therefore it is difficult to subscribe to the view that

once they are qualified under the criteria fixed by the AICTE they should be admitted even if they fall short of the criteria prescribed by the

State.The scope of the relative entries in the Seventh Schedule to the Constitution have to be understood in the manner as stated in the Dr. Preeti

Srivastava"s case and, therefore, we need not further elaborate in this case or consider arguments to the contrary such as application of occupied

theory no power could be exercised under Entry 25 of List III as they would not arise for consideration.

emphasis supplied

In view of the said decision, I am not impressed by the contentions of the petitioners that Clause 9.7.5. in the prospectus has been included without

legislative competence. In fact, this decision is a complete and exhaustive answer to all the contentions of the petitioners.

9. Now I shall examine the contentions of the petitioners on the basis of discrimination. The contention of the petitioners is that SC/ST candidates,

children and wards of Non-Resident Indians and students who appeared for the common entrance test conducted by the managements"

consortium are excluded from the said condition whereas the others have to pass that condition also for becoming eligible for admission to

professional courses. I am of opinion that this argument is also fallacious. As far as SC/ST candidates are concerned, the Constitution itself

recognises prescription of lesser standards for them for admission. In fact, the learned Counsel for the petitioners also reluctantly concede the same

As far as children and wards of N. Rule Is. are concerned, the Kerala Self Financing Professional Colleges Prohibition of Capitation Fees and

Procedure for Admission and Fixation of Fees Act, 2004 specifically recognises such a qualification in section thereof. Section 3 reads as under:

Procedure for admission into self financing professional colleges:

(1) Notwithstanding anything contained in any law for the time being in force or in any judgment decree or order of any court or any other authority

or in any agreement, the admission of students into a self financing professional colleges shall be made on the basis of merit provided in Sub-

sections (2) to (6).

(2) In every self financing professional colleges fifty percent of the total seats in each branch shall be Government Quota and the remaining fifty

percent shall be Management Quota.

(3) Seats in the Government Quota shall be filled up based on counselling by the Commissioner for Entrance Examinations on the basis of the

ranks in the common entrance examination conducted by him, following the principles of reservation as ordered by the Government from time to

time.

(4.) Seats in the Management Quota shall be filled up either from the list prepared on the basis of the Common Entrance Examination conducted

by the Commissioner for Entrance Examinations or from the list prepared on the basis of the common entrance test conducted by a consortium of

a particular type in the State:

Provided that the managements shall have the option to earmark more than 15 per cent of the seats in the Management Quota to dependents of

Non-Resident Indians and in that case, the admission of the candidates shall be made on the basis of the marks they have obtained in the qualifying

examination.

(5) Educational qualification for admission in the Self Financing Professional College shall be the same as are applicable to the corresponding

courses in the Government colleges as may be notified by the Government from time to time.

(6) Notwithstanding anything contained in Sub-section (1), lapsed seats, if any, may be filled by the management in accordance with Sub-sections

(4) and (5).

Both these streams of admission have also been approved by the Supreme Court of India in the Pai Foundation case as also the case of P. A.

lnamdar and Ors. v. State of Maharashtra and Ors. reported in (2005) 6 SCC 537 : 2005 (4) KLT 3 (SC). In paragraph 131 of Inamdar''s case

the Supreme Court specifically dealt with N.R.I. seats in the following words:

131. Here itself we are inclined to deal with the question as to seats allocated for Non Resident Indians ""NRI"" for short or NRI seats. It is

common knowledge that some of the institutions grant admissions to a certain number of students under such quota by charging a higher amount of

fee. In fact, the term ""NRI"" in relation to admissions is a misnomer. By and large, we have noticed in cases after cases coming to this Court, neither

the students who get admissions under this category nor their parents are NRIs. In effect and reality, under this category, less meritorious students,

but who can afford to bring more money, get admission. During the course of hearing it was pointed out that a limited number of such seats should

be made available as the money brought by such students admitted against NRI quota enables the educational institutions to strengthen their level

of education and also to enlarge their educational activities. It was also pointed out that people of Indian origin, who have migrated to other

countries, have a desire to bring back their children to their own country as they not only get education but also get reunited with the Indian cultural

ethos by virtue of being here. They also wish the money which they would be spending elsewhere on education of their children should rather reach

their own motherland. A limited reservation of such seats, not exceeding 15%, in our opinion, may be made available to NRIs depending on the

discretion of the management subject to two conditions. First, such seats should be utilised bonafide by NRIs only and for their children or wards.

Secondly, within this quota, merit should not be given a complete go-by. The amount of money, in whatever form collected from such NRIs,

should be utilised for benefiting students such as from economically weaker sections of the society, whom, on well-defined criteria, the educational

institution may admit on subsidised payment of their fee. To prevent misutilisation of such quota or any malpractice referable to NRI quota seats,

suitable legislation or regulation needs to be framed. So long as the State does not do it, it will be for the Committees constituted pursuant to the

direction in Islamic Academy of Education and Another Vs. State of Karnataka and Others, to regulate.

10. The petitioners have not chosen to challenge the validity of Section 3 of 2004 Act. In fact, even the 2006 Act which replaced the 2004 Act

also has not changed the position. In view of the Supreme Court decisions on the subject, the same is a reasonable classification. Therefore, they

cannot be heard to contend that the same amounts to discrimination. Further, in so far as the candidates who appeared for the common entrance

test conducted by the Managements'' consortium, nothing prevented these petitioners also from writing examinations conducted by the

Management consortium or the Managements from joining the consortium for such tests. In fact, when the prospectus was issued, these

managements were aware of the position and they could have joined the common entrance test conducted by the Managements'' consortium. That

being so they cannot be heard to contend that exclusion of those students from the purview of the particular condition violates Article 14 of the

Constitution of India. The contention that most of the managements are not participating in the test because the number of applications received by

many colleges are less than the number of seats available with them is no answer to such a defence. I am of opinion that, as held by the decisions of

the Supreme Court quoted supra, simply because seats are vacant, students who do not have minimum level of competence or minimum standard

of competence cannot be allowed to be admitted to professional courses which, if allowed, would lead to deterioration of the standards of the

processionals who come out of the professional colleges, as I have already indicated hereinbefore.

11. For the reasons hereinbefore mentioned, particularly the decision of the Supreme Court which categorically accepts the right of the State

Governments to prescribe a minimum or qualifying marks for the common entrance Examination, the contention of the petitioners that the

Commissioner of Entrance Examination can only array the candidates in the order of rank as per the marks obtained by them in the list of

candidates appeared for the test and cannot exclude them from the rank list, cannot be countenanced.

12. The further contention that the prescription of separate minimum of ten marks for each paper is arbitrary also cannot be accepted. For the

qualifying examinations if one scores full marks in two subjects and fails in one subject, then he would not be declared as passed in the examination

at all. There is nothing wrong in applying the very same standard to the entrance examination also. Engineering course candidates should have

proficiency in subjects of both papers and therefore separate qualifying marks require to be prescribed. In this connection, it should be noted that

the minimum prescribed is only 10 marks which would be only minimal fraction of the total marks for each subject. In fact this 10 marks to be

scored is out of a maximum marks of 480, which would work out to only 0.2% of the total marks. This can be regarded only as a barest of bare

minimum standard, which can, by no stretch of imagination, be faulted. Therefore it cannot be said that prescribed minimum is not achievable by

ordinary standards or the standards expected of a student seeking admission to engineering course. As such, I am not also satisfied that the

contention of the petitioners in this regard is sustainable.

13. It is worthwhile to note that the prospectus itself begins with Clause 1.4 as follows:

1.4 Admissions to the above courses except Architecture are regulated on the basis of merit as assessed in the Engineering/Medical Entrance

Examinations conducted by the Commissioner for Entrance Examinations (CEE). For admission to the Architecture course, the merit as assessed

by giving equal weightage to the marks obtained in an Aptitude test and in the qualifying examination will be the criterion. The seats, to which

admissions are made through the Entrance Examinations, are contained in the relevant paragraphs.

The same itself makes it clear that admissions are to be regulated on the basis of merit as assessed in the common entrance test. That would

essentially mean that the intention behind the entrance test itself is to ensure that only those students who come within the prescribed level of

standard would be considered as eligible for admission to theses courses. The petitioners have not chosen to challenge that clause. If the

petitioners'' contention is to be accepted, then the very purpose of this clause would be defeated in so far as every candidate who merely appears

for the entrance test would be qualified for admission, if he has the bare minimum in the qualifying examination. That would make the above clause

otiose, which cannot be permitted. If that be so, the purpose and intent of this clause has to be given effect to, which can be done only by

prescribing a minimum criteria for qualifying in the entrance test, which alone has been prescribed by Clause 9.7.5. As such, Clause 9.7.5 is

beyond reproach.

14. In view of the above discussion, it cannot also be said that the impugned clause was incorporated in the prospectus without application of

mind. As I have already said, the fact that the same would result in many seats lying vacant for this year is no reason to hold that candidates who

have not proved themselves to be up to the minimum prescribed standard should be given admission to the vacant seats by deleting such condition.

This has been made clear in the Supreme Court decisions quoted supra. As is abundantly clear from the decision of the Supreme Court, the

paramount importance should be given to the merit of the candidates and merit cannot be sacrificed for any other fall outs of such criteria whether

the implications are practical or monetary.

15. Lastly, there is another aspect also. The petitioners were aware of this particular clause in the prospectus and the condition contained therein at

the time of applying for admission itself and they were put on notice that only if they satisfy this condition, they would be eligible for admission to

the course. They participated in the test fully knowing the implications of the said clause. They did not choose to challenge the same at that time. As

such, they cannot now, after appearing for the examination and failing to qualify, turn round and challenge the said clause itself. This has been held

to be not permissible by the Supreme Court in very many cases, the latest of which is K.H. Siraj v. High Court of Kerala and Ors. reported in

2006 (2) KLT 923 : AIR 2006 SCW 3136. Although, the same relates to selection for appointment to a post in the service of the Government,

the principle would be equally applicable to selection for admissions also. It would be advantageous to quote the relevant portion of the judgment,

which is contained in paragraph 75 of the decision, which reads thus:

75. The appellants/petitioners having participated in the interview in this background, it is not open to the appellants/petitioners to turn round

thereafter when they failed at the interview and contend that the provision of a minimum mark for the interview was not proper. It was so held by

this Court in paragraph 9 of Madan Lal and Others Vs. State of Jammu and Kashmir and Others, as under:

Before dealing with this contention, we must keep in view the salient fact that the petitioners as well as the contesting successful candidates being

respondents concerned herein, were all found eligible in the light of marks obtained in the written test, to be eligible to be called for oral interview.

Up to this stage, there is no dispute between the parties. The petitioners also appeared at the oral interview conducted by the members concerned

of the Commission who interviewed the petitioner as well as the contesting respondents concerned. Thus, the petitioners took a chance to get

themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined

performance both at written test and oral interview they have filed this Writ Petition. It is now well settled that if a candidate takes a calculated

chance and appears at the interview, then, only because the result of the intervew is not palatable to him, he cannot turn round and subsequently

contend that the process of interview was unfair or the selection committee was not properly constituted. In the case of Ex-Capt. A.S. Parmar and

Others Vs. State of Haryana and Others, it has been clearly laid down by a three learned Judges of this Court that when the petitioner appeared in

the examination without protest and when he found that he would not succeed in examination, he filed a petition challenging the said examination,

the High Court should not have granted any relief to such a petitioner.

As such, the Writ Petitions should fail on that ground also. Therefore, on all counts, the petitioners have not made out a case for interference by this

Court with Clause 9.7.5 of Ext. P 1 prospectus. Therefore, the Writ Petitions fail and the same are accordingly dismissed.