

described by the Hon'ble Supreme Court of India not a proper exercise of jurisdiction. In this regard, reference can be made to the case of *Ramji Bhagala v. Krishnarao Karirao Bagre and another* (10). This is not even the main controversy between the parties in the present case. Thus, I see no reason to discuss this contention in any further illucidation.

(23) To bring out the cause of action, a plaint must state necessary conditions to maintain a suit. The merit of those conditions and/or terms is inconsequential at the stage, for consideration of such application. What evidence the plaintiff would lead to prove his case or what probable defence the defendant would raise is not the concern of Court at that initial stage of proceedings. Cause is the proper generic terms. Its construction must and has to be decided keeping in mind the facts and circumstances of each case. The steps taken in the suits are proper in law and on facts of the case, they call for no need to retrace the order passed by the learned trial court.

(24) I am unable to agree with the contention that the learned trial court has fallen in error of jurisdiction in dismissing the application at this stage and hold that there are triable issues which cannot be rejected at the threshold and the parties must be permitted to conclude their evidence. Being unable to see any error of jurisdiction or otherwise in the impugned order dated 4th March, 1997. I have no hesitation in dismissing this revision. However, without any order as to costs.

(25) As the present suit was instituted in the year 1996 and keeping in view the peculiar facts of this case, I would prefer to request the learned trial Court to decide the suit as expeditiously as possible. In any case within one year from the date a copy of this order is placed on the record of the trial court.

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**R.N.R.**

*Before Jawahar Lal Gupta and V. M. Jain, JJ*

DR. A.K. BAKHSHI,—*Petitioner*

*versus*

PANJAB UNIVERSITY, CHANDIGARH AND OTHERS,—  
*Respondents*

C.W.P. No. 18781 of 1997

22nd December, 1999

*Constitution of India, 1950—Arts. 14 & 16—Panjab University  
Calendar, Chapter VI—Reg. 4—Selection and appointment to the posts*

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(10) A.I.R. 1982 SC 1223

*of professors in Inorganic Chemistry and Chemical Education—Applications received after last date are liable to be rejected in terms of the advertisement—Selection of such applicants liable to be quashed as violative of regulations & Art. 14—Successor Vice Chancellor misinformed by the Head of the department who recommended condonation of delay in the submission of application forms of the two candidates—Vice Chancellor not told predecessor V.C. had rejected the applications—The allegations of bias and mala fide alleged against the head of the department and two subject experts—Bias cannot be proved as a chemical reaction but can be inferred from the circumstances as exist in the present case—On cumulative consideration of record & facts, selection of the respondents illegal and, therefore, liable to be quashed—Petitioner is not estopped from challenging the selection of the appointees merely because he participated in the selection—When it cannot be said that the petitioner is aware of the intricate connection between the head of the department, the so called subject experts and the selectees, objection regarding non-impleading of all members of the Selection Committee is misconceived—Non-impugning the resolution of the Syndicate and the Senate approving the appointment is not fatal to the petition where the entire selection and appointments stood challenged—Appointments quashed and fresh selection ordered in accordance with law.*

*Held that*, the Vice Chancellor on consideration of the matter had found no reason to condone the delay of more than 5 months in the submission of the applications by respondent Nos. 5 & 6. Thus, with the passing of the order dated 2nd May, 1997, the power to condone delay as conferred by the resolution of the Syndicate stood exhausted.

(Para 36)

*Further held*, that the Vice Chancellor, according to the decision of the Syndicate could have condoned delay only in “exceptional cases” and by “giving reasons”. In the present case, there was no reference to the decision of the Syndicate. Neither respondent No. 3 nor respondent No. 2 had observed that it was an ‘exceptional’ case. Respondent No. 2 had recorded no reasons for condoning the delay. Thus, the order of the Vice Chancellor did not even conform to the requirements of the decision of the Syndicate.

(Para 41)

*Further held*, that the language of the advertisement is prohibitive. It was indicative of the intention to reject applications which were not received by the stipulated date. This stipulation was not open to alteration at the whim of the authority. It could not be changed without

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notice to the public at large. If the University intended to entertain applications received after the due date, it had to issue a notice to the public so that others who may have failed to submit applications for good reason may get a chance. Equally, even those persons who had become eligible after 15th November, 1996 could have offered their candidature. In the present case, the University did not issue any corrigendum. It did not afford any opportunity to others. In our view, the University erroneously relaxed the rigour of the advertisement. It erred in entertaining the applications of respondent Nos. 5 & 6 after the last date.

(Para 43)

*Further held*, that the Vice Chancellor having not approved the second proposal, it cannot be said that the consideration of the applications of respondent Nos. 5 & 6 was referable to regulation 4. The record belies the suggestion.

(Para 47)

*Further held*, that the first question is answered in the affirmative. The candidature of respondent Nos. 5 and 6 could not have been considered as their applications had not been received by 15th November, 1996.

(Para 49)

*Further held*, that the third respondent is repeatedly trying to show that he had played no role. The applications were processed by the competent authority in accordance with the University Regulations. Respondents No. 1 and 2 have to give the facts. What he conceals is the fact that he had written the letter dated 14th October, 1997. Thus, only he had processed the applications. The contents of this letter have been noticed. A perusal of this letter shows that he had clearly suggested to the Vice Chancellor that the delay in the late submission of the applications should be condoned. He had opined that both the candidates "are excellent teachers/research workers". He had "strongly recommended that they may be allowed to attend the interview before the Selection Committee/(in absentia)..." It appears that Dr. Chadha is not disclosing full facts to the Court. Not even his own letter.

(Para 53)

*Further held*, that the counsel contended that the petitioners had not impugned the resolution of the Syndicate and the Senate. The petitioners have challenged the selection and appointment. This includes all the events leading to the ultimate appointment. It has not been

shown that the decisions of the Syndicate are circulated by the University to the candidates. Thus, the claim cannot be rejected on this ground. Still further, the selection itself being illegal, its ratification by the Syndicate and Senate does not rectify the basic illegality.

(Para 65)

P.S. Patwalia, Advocate,—*for the Petitioner.*

P.S. Goraya, Advocate for respondent Nos. 1 and 2.

S.S. Shergill, Advocate for respondent Nos. 3 and 4.

M. L. Sarin, Sr. Advocate with Suvir Sehgal, Advocate for respondents Nos. 5 and 6.

### JUDGMENT

*Jawahar Lal Gupta, J.*

(1) Two posts of Professors in the Department of Chemistry were advertised. The applications had to be submitted on the prescribed proforma by 15th November, 1996. Dr. Suniti Kumar Sharma and Dr. K.K. Bhasin had failed to submit applications by the last date. A request made by them in April, 1997 for the consideration of their claim was rejected by the then Vice Chancellor—Dr. T.N. Kapoor on 2nd May, 1997. On 8th/9th October, 1997, Dr. Bhasin made another request. On 12th October, 1997, Dr. Suniti Kumar Sharma sent his application by fax from America. On 14th October, 1997, Prof. S.L. Chadha—the Chairman again put up the cases of Dr. Suniti Kumar Sharma and Dr. K.K. Bhasin to the Vice Chancellor. In his letter of date, he suggested that either “(i) the total delay in late submission of their applications may please be condoned.....” or “their applications may be considered” in view of the power of the Vice Chancellor to place the names of suitable persons before the Selection Committee. The first proposal was approved by the Vice Chancellor on the same day. The interviews were held on 21st October, 1997. Dr. Suniti Kumar Sharma was selected for the post of Professor in Inorganic Chemistry. This was despite the fact that he had not even appeared for interview before the Selection Committee. Dr. K.K. Bhasin was selected for the post of Professor in Chemical Education. The proceedings of the Selection Committee were approved by the Syndicate on 27th October, 1997 and by the Senate on 21st December, 1997. Dr. Suniti Kumar Sharma who was already in America submitted his joining report on 13th February, 1998 and went back. He has not worked in the Department since the year 1988. Dr. Bhasin had joined on 27th October 1997 and proceeded on leave sometime later.

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(2) These two petitions have been filed to challenge the selection and appointment of Dr. Suniti Kumar Sharma and Dr. K.K. Bhasin. It is alleged that both the candidates had not submitted their applications by the last date. On receipt of their applications on 14th April, 1997, the matter was considered by the then Vice Chancellor. The request for condonation of delay was rejected on 2nd May, 1997. Thereafter, the Chairman of the Department had submitted the applications again in October, 1997 without disclosing the fact that the earlier request had been declined. He was biased as he had visited America and enjoyed the hospitality of these two candidates. The petitioners maintain that the selection and appointment of respondent Nos. 5 and 6 is wholly illegal, violative of Articles 14 and 16 and is vitiated by bias. They pray that the selection and appointment of Respondent Nos. 5 and 6 be quashed.

(3) Counsel for the parties have broadly referred to the facts as averred in CWP No. 18782 of 1997. These may be briefly noticed.

(4) The Panjab University advertised various posts including two posts of Professors in Chemistry. One of these was in the field of Chemical Education, while the other was in the specialisation of Inorganic Chemistry. The applications had to "reach by registered post to..... Panjab University, Chandigarh by 15th November, 1996". It was stipulated in the advertisement that "separate application form is required to be submitted for each post". It was further laid down that "applications not in the prescribed proforma or incomplete applications or those received after the last date are liable to be rejected". Attested copies "of certificates in support of qualifications for Matriculation/School leaving, Graduation, Post Graduation examination as also for M. Phil/ Doctoral Degree" were also required to be attached with the application. The candidates residing abroad were permitted to "apply on plain paper with full bio-data (eight copies) together with a fee of Rs. 75 payable by a crossed account payee Bank Draft....." A copy of this advertisement has been produced as Annexure P.1 with the writ petition.

(5) The petitioner submitted his application on the prescribed proforma. A photo copy has been produced as Annexure P. 2 with the writ petition. The petitioner alleges that he was the senior-most Reader in the Department, in Inorganic Chemistry at that time. He has research experience of 31 years. He had been teaching chemistry at the University level for the last 28 years. He has supervised a number of M.Sc., M. Phil and Ph.D. students. He has published a number of papers in Journals of repute. Besides 25 papers published by him in collaboration with others, he has independently published 37 papers.

He maintains that his work has been quoted by various persons. He was called for interview,—*vide* letter dated 6th October, 1997.

(6) The petitioner alleges that respondent Nos. 5 and 6 had not submitted their applications by the last date. They had, however, applied "about 5/6 months ago after the last date was over. The petitioner has found out that the then Vice Chancellor refused to allow them to be considered for appointment after the last date and rejected their applications. Now the present Chairman has again influenced/procured their applications since there was a change in the Vice Chancellor and has been successful in getting them considered for appointment". The petitioner alleges that applications of respondent Nos. 5 and 6 which had been received long after the expiry of the last date had been rejected by the then Vice Chancellor.

(7) The petitioner further alleges that the Selection Committee has to include the subject experts. The "selection of experts is made by the Vice Chancellor from out of the list of persons which is submitted to him by the concerned Head of the Department". In the present case, "the Chairman—respondent No. 3 intentionally included Dr. B.S. Minhas..... Shri B.D. Gupta amongst the list of experts sent to the Vice Chancellor" Still further, before "the interview letters could be sent, respondent No. 3, Chairman realised that both Shri B. D. Gupta, respondent No. 4 as also Shri B.S. Minhas, respondent No. 7 had been included in the Selection Committee for the post of Professor in Inorganic Chemistry. Apart from this, the Chairman also realised that Shri B.D. Gupta, respondent No. 4 had been included as the expert in the selection committee for the Professor in Chemical Education.....". According to the petitioner, respondent No. 3 (Dr. S.L. Chadha, Chairman, Department of Chemistry) and respondent No. 4 (Dr. B.D. Gupta, Professor, IIT, Kanpur)" were under an obligation of respondent Nos. 5 and 6....". He makes this allegation on the ground that "respondent No. 5 — Shri Suniti Sharma and Shri Subhash Narang were students of the Chairman—Shri S.L. Chadha. The said Shri Subhash Narang migrated to USA about 20 years ago. He settled down in America and started working there .....He is employed with a company named as SRI International which is a commercial undertaking which undertakes research work for other companies in the field of Chemistry... Shri Subash Narang who was receiving substantial grant for the various projects invited his friend and class-fellow Shri Suniti Sharma, respondent No. 5 to help him carry out the research work. Respondent No. 5 who was at that time working in the Chemistry Department of the Panjab University sought leave.....in the year 1988 and left for

America on the invitation of Shri Subhash Narang. Respondent No. 5 has since then been working with Shri Subhash Narang in various research projects and is making substantial money....” The petitioner further alleges that respondent No. 5 is also getting substantial grant for research. He “has been inviting Shri B.D. Gupta.....on a number of occasions to ...help....with the research projects. The entire expenses for travel/stay, boarding and lodging of Shri B.D. Gupta is borne by respondent No. 5 (Dr. Suniti Kumar Sharma) from out of the research projects”. According to the petitioner “respondent No. 4 has been going to America on number of occasions.....” He specifically mentions “the period January, 1995 to August, 1995. During this period, Shri B.D. Gupta stayed in the residence of Shri K.K. Bhasin who has been selected against....post of Professor in Chemical Education....” The petitioner also alleges that “the Chairman of the Department Shri S.L. Chadha also visited America in January, 1997 and stayed for a period of one month. He also stayed in the residence of Shri Bhasin during the period when he was in America.... At that time, the petitioner understands that respondent Nos. 5 and 6 called the Chairman to America and looked after him because they wanted to get extension in their leave and appointment of Professor in the Department during his tenure as Chairman”. According to the petitioner, “when respondent No. 3 realised that in the selection committee, Shri B.D. Gupta was also selected as expert and he himself was there and the two of them would be in a position to influence the ultimate recommendation...it was decided to make respondent Nos. 5 and 6 also to apply for these posts”. The petitioner alleges that “it must have been on the asking of the Chairman that Suniti Sharma, respondent No. 5 faxed application to the University....Application has been faxed on 12th October, 1997. The application is not on the prescribed proforma. It is after the last date of receipt of application....Even the application fee has not been paid by the respondent No. 5.....The particulars in the application are not complete. Educational qualifications were required right from the Matriculations level. However, the same have not been given. It is for the reason that respondent No. 5 has third division in B.Sc. (Honours) i.e. below 50%”. The petitioner asserts that respondent No. 5 was actually in India in August/September, 1997. In spite of the fact that he was here at that time, he did not submit any application for the said post. This clearly shows that he was made to give an application by respondent No. 3 after he realised that respondent No. 4 was also in the selection committee and together they would be in a position to facilitate the selection of respondent No. 5”. On these premises, the petitioner claims that respondent No. 5 had sent his application on 12th October, 1997 viz. after the interview letters had been forwarded to the various candidates.

(8) The petitioner further alleges that his "apprehensions are confirmed by the fact that for the other post advertised, respondent No. 6 was similarly made to apply after the last date. Respondent No. 6 Shri K.K. Bhasin is the same person who was in America and with whom respondent Nos. 3 and 4 had been staying. Respondent No. 6 had also applied after the last date and rather interview letters had already been circulated. His application was also not on the prescribed proforma and neither was it accompanied with requisite fee".

(9) The Selection Committee met on 21st October, 1997. In this meeting, "as expected..... respondent No. 5 was selected for the post of Professor in Inorganic Chemistry and respondent No. 6 was kept on the waiting list. For the other post of Professor in Chemical Education, respondent No. 6 has been selected". The petitioner also alleges that one of the members had recorded his dissent in the selection of respondent No. 5.

(10) The petitioner alleges that Dr. Chadha who was the Chairman had "encashed the cheques of Rs. 1,600 and Rs. 6,714 belonging to Sunita and Ranu who were the research scholars and kept the money with him and utilised the same". Later on, "he apologised and returned the money to the girls and further requested that he should not be given any administrative responsibility in future". Later, he "manipulated and became the Chairman of the Department...." Now "as a Chairman, he has gone to America on the invitation of respondent Nos. 5 and 6 on the pretext of rendering research work and had stayed in America on the expenses of respondent Nos. 5 and 6 for a period of one month. Now he is repaying the debt by getting respondent Nos. 5 and 6 selected against the post of Professor...."

(11) The petitioner also points out that "respondent No. 5 is working in America. He has not so far come and joined as Professor in Inorganic Chemistry. On the other hand, respondent No. 6 has joined as Professor in Chemical Education in the Chemistry Department without the approval of the Senate as required". The petitioner challenges the selection and appointment of respondent Nos. 5 and 6 on various grounds which shall be noticed. He prays that the selection and appointment of respondent No. 5 as Professor in Inorganic Chemistry be quashed.

(12) Separate written statements have been filed by the respondents. On behalf of the University and the Vice Chancellor, the written statement has been filed by the Registrar. It has been averred that in view of the dispute on facts, the writ petition is not maintainable. The petitioner having appeared before the selection committee, he is

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estopped from challenging the selection. His claim having been considered, he has no right to impugn the selection. On merits, it has been averred that the selection of respondent No. 5 is legal and valid. The delay "in late submission of applications of respondent Nos. 5 and 6 was condoned on 14th October, 1997 by respondent No. 2. The candidature of respondent No. 5 was considered in absentia on request. The selection of respondent No. 5 is legal." It has been further averred that "the Panjab University Senate had approved the selection of respondent Nos. 5 and 6. Respondent No. 5 joined the post of Professor in Inorganic Chemistry on 13th February, 1998. It has also been averred that "in terms of the clause appended with the Advertisement Annexure P. 1, the Vice Chancellor had the authority to place the names of respondent Nos. 5 and 6 before the Selection Committee." In this behalf, reference has been made to the decision of the Syndicate dated 16th December, 1973. Paragraph 54 (iii) reads as under :—

"That only in exceptional cases, the Vice Chancellor might pass orders giving reasons for entertaining applications received after the due date".

(13) It has been further averred that the allegations "pertaining to respondent Nos. 2, 3 and 5 do not find support from the University record". On these premises, the University prays that the writ petition be dismissed.

(14) Professor S.L. Chadha, Chairman of the Department of Chemistry—respondent No. 3 has filed a separate written statement. He avers that "a bare reading of the allegations make it patently clear that the allegations are without any basis and are merely an after-thought....due to his non-selection". As such, the petitioner is estopped from making the allegations. He maintains that "after his non-selection by the Selection Committee (the petitioner) has created a fictional narration for the purposes of filing the writ petition....." The respondent accuses the petitioner of concealing "the relevant statutory provisions in order to mislead this Hon'ble Court".

(15) On merits, the respondent asserts that he was "invited by SRI International California (USA) on the basis of his distinguished academic standing as a Professor of Chemistry and Chairman, Département of Chemistry, Panjab University, Chandigarh. The stipend during the period of the answering respondent during the period in California, USA, was given by the aforesaid concern. Respondent Nos. 5 and 6 applied for selection to the posts in question on their own. The selection of respondent Nos. 5 and 6 has been made by the selection committee on the basis of comparative merit of the candidates". The

petitioner's assertion with regard to his academic attainments and seniority etc. as made in paragraph 3 of the writ petition have been "denied for want of knowledge". He further asserts that the names of respondent Nos. 4 and 7 were sent by him to the Vice Chancellor "on the sole consideration that these two persons were eminent scientists in the field of Chemistry". Similarly, "the averments regarding the details of migration of Shri Subhash Narang to USA and respondent No. 5 (sic) employment in USA are denied for want of knowledge". He, however, admits that "when he was invited by SRI International California, the aforesaid two scientists were working there". He asserts that he "had no role whatsoever in the respondent No. 5 and 6 making applications for the posts in question.....Respondent Nos. 5 and 6 did make applications, which were processed by the competent authority, as per University Regulations and it is for respondent Nos. 1 and 2 (to) furnish the details. He further states that "respondent No. 5 already joined as Professor in Inorganic Chemistry. Respondent No. 6 is already working as Professor in Chemical Education....." He also asserts that respondent No. 7 happened to be "a lecturer in the Chemistry Department, Panjab University with the answering respondent in late sixties i.e. about 30 years back. As such, it is absolutely baseless to infer that respondent No. 7 was under the influence of answering respondent". Various grounds raised by the petitioner have been controverted. The respondent prays that the writ petition be dismissed with costs.

(16) Dr. B.D. Gupta - respondent No. 4 has filed a separate written statement. The preliminary objections similar to those raised by respondent No. 3 have also been raised by him. He maintains that he had been invited by SRI International on the basis of his merit. He never enjoyed "the lodging/boarding of either respondent No. 5 or 6". These two candidates have been selected "on the basis of comparative merit of the candidates". He maintains that there was no bias and thus, the selection is not vitiated.

(17) Dr. Suniti Kumar Sharma, respondent No. 5 has sent a written statement from USA. Its contents have not even been verified. Irrespective of that, the pleas may be noticed. He alleges that the petitioner has not impleaded necessary parties viz. certain members of the selection committee. The allegations of malafides are far-fetched. The petitioner has "intentionally not mentioned prominently the fact that the provisions of Regulation 4.....which vest power in the Vice-Chancellor to place before the Selection Committee the names of suitable persons for its considerations...finds specific place in the advertisement Annexure P.2...." The petitioner has intentionally suppressed the fact

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“that suspicion was cast on his research work by one of the referees by Professor Jack Miller of Canada way back in the year 1987 with whom he worked as Post Doctoral Fellow for three years”. The petitioner was not selected for the post of Professor in February, 1998. The respondent maintains that he was “an eminently suitable candidate for appointment.....He has the teaching experience of over 14 years and research experience of over 27 years at the Centre of Advance Studies, Chandigarh at Panjab University, Chandigarh and at SRI International, USA. Since the year 1993, he has been the project leader at SRI International, USA for three prestigious projects and participated in four development and research programmes. He has been the Principal Investigator/Co-investigator in six research projects and supervised four Ph.D. thesis at the Centre of Advacned Studies in Chemistry at Panjab University, Chandigarh. He has to his credit over 35 publications in National and International Journals including three Reviews. He has attended and participated in conferences/symposia in Germany and USA. He has delivered lectures on important subjects in 1996-97 at two different organisations in USA. He alongwith his co-inventors has applied for patent of five inventions.... His papers have been cited in the Dictionary of Inorganic Compounds published in 1992....”

(18) In response to the petitioner's assertion that he has mostly stayed in America, the respondent asserts that he had “assumed his duties on the post on 13th February, 1998”. He alleges that the petitioner having not challenged the resolution of the senate, the cause in the writ petition does not survive. He alleges that keeping in view the high cost of living in USA, he had “no funds to spare, nor were any other funds at his disposal by which he could have financed the trip of respondent Nos. 3 and 4 to USA”. He asserts that he “applied for appointment to the post of Inorganic Chemistry 5/6 months before the Vice Chancellor nominated the Selection Committee. Irrespective of the last date of the submission of applications, the Vice Chancellor was vested with the powers to place before the selection committee, the bio-data of the replying respondent for consideration as per Important Note No. 2 of the advertisement.... and regulation 4 of Chapter V-A of the Panjab University Calendar, Volume I...The selection committee had the discretion to consider the candidature of the replying respondent and having found him to be the best of the candidates, he was selected in absentia”. In para 13, he denied that his application “was rejected by the then Vice Chancellor”. He further states that “it is also false that the present Chairman influenced the present Vice Chancellor to consider the replying respondent for selection to the post. The same candidature of the replying respondent was considered, accepted and placed before

the Selection Committee". He repeats in reply to para 16 (x) that his application "was never rejected by the Vice Chancellor". On these premises, respondent No. 5 prays that the writ petition be dismissed.

(19) Respondent No. 6 has filed a short written statement in this writ petition. He asserts that respondent No. 5 had accepted the offer and joined the post "of Professor in Inorganic Chemistry on 13th February, 1998". He also states that he had never invited "respondent Nos. 3 and 4 to USA nor did he finance their trip". Respondent Nos. 3 and 4 were under no debt or obligation to him.

(20) No written statement has been filed by respondent No. 7.

(21) The petitioner has filed separate replications to the written statements filed on behalf of the respondents. He has reiterated the averments as made in the writ petition and controverted the assertions made on behalf of the respondents. The allegation made by respondent No. 5 that "suspicion was cast on research work by one of the referees by Prof. Jack Miller of Canada..." has been denied as "false and baseless". The petitioner asserts that he has "published 7 papers alongwith Jack Miller of Canada during his stay in Canada. The thesis of one of the Ph. D. students who was guided by the petitioner namely Vijay Sharma was assessed by Jack Miller in 1983 and he gave excellent report. In fact, the averments have been made by respondent No. 5 in order to mislead this Hon'ble Court" In particular, the petitioner has pointed out that "the favouritism being shown by the University to respondent No. 5 is that after his selection, respondent No. 5 came to India for a day. He joined against the post of Professor and left the next day back for USA". The petitioner asserts that "all the norms and rules are being flouted in favour of respondent No. 5. He alleges that "for the last 8 years, respondent No. 5 is not joining the University and is employed as Chemist in America without any proper authority to that effect. He also maintains that the whole process of selection being wrong and illegal, the "approval of the Syndicate and Senate cannot legalise the said illegality". In the replication to the written statement of respondent No. 3, it has been averred *inter alia* that he had "forwarded the cases of respondent Nos. 5 and 6 to the Vice Chancellor with his recommendations without making it clear that earlier the applications filed by respondent Nos. 5 and 6 already stood rejected for the same relief by the then Vice Chancellor". It has also been averred that respondent No. 5 had secured a third division in the B.Sc. (Honours) examination. He has produced a copy of the Gazette notification as Annexure P. 7. It is not necessary to notice the other averments in detail.

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(22) These are the pleadings in the case.

(23) In CWP No. 18781 of 1997, the petitioner is already working as a Professor in the Department of Chemistry at the University of Delhi. He alleges that the selection and appointment of Dr. K.K. Bhasin as Professor in Chemical Education is wholly illegal and arbitrary. Besides the allegations against respondent Nos. 3 to 6 as levelled in the other case, the petitioner has asserted that the meeting of the selection committee was fixed for 21st October, 1997. Besides the Vice Chancellor, the Chairman of the Department, Dr. B.D. Gupta - respondent No. 4, there were four other members viz. Prof. H.B. Singh, Prof. Ram Parkash, Prof. DVS Jain and Prof. J.S. Yadav. According to the petitioner, Prof. H.B. Singh was not a member of the selection Committee. Some other expert had been called. However, at the time of the meeting, the said expert had not come. Prof. H.B. Singh was, thus, called. At the time of the commencement of the meeting of the selection committee, eight persons were present even though the Committee had to consist of seven persons. Professor Ramesh Kumar Kakkar was the eighth person. Professor Kakkar was asked to leave. Prof. DVS Jain—a former Chairman of the Department had recorded that he did not agree with the recommendation of the Selection Committee regarding Dr. K.K. Bhasin. Otherwise, the pleadings are broadly on the same lines as noticed above.

(24) Counsel for the parties have been heard.

(25) On behalf of the petitioners in both the cases, Mr. P.S. Patwalia contended that the applications having not been submitted by the two candidates viz. Dr. Suniti Kumar Sharma and Dr. K.K. Bhasin by 15th November, 1996, they could not have been considered for appointment. Secondly, the counsel submitted that the selection is vitiated by the bias of respondent Nos. 3 and 4.

(26) The claim made on behalf of the petitioners was controverted by the counsel for the respondents. Mr. M.L. Sarin, learned counsel for respondent Nos. 5 and 6 submitted that the petitioners having participated in the selection were estopped from challenging the constitution of the selection committee especially when two members of the selection committee viz. Dr. Ram Parkash and Dr. J.S. Yadav had not been impleaded as parties. He also submitted that the selection having been approved by the Senate, the mere challenge to the selection is of no consequence especially when the resolution of the Senate has not been challenged. He also submitted that the writ court should be slow to interfere in academic matters. The contentions were adopted by counsel for respondent Nos. 1 to 4.

(27) The following questions arise for consideration :—

- (i) Did the University err in considering the applications of respondent Nos. 5 and 6 ?
- (ii) Is the selection vitiated by bias ?
- (iii) Are the petitioners estopped from challenging the selection and the consequential appointment of respondent Nos. 5 and 6 ?

Reg : (i) Did the University err in considering the applications of respondent Nos. 5 and 6 ?

(28) Admittedly, the posts had been advertised,—*vide* advertisement No. 10 of 1996. It was clearly stipulated that the applications must “reach by registered post to the Deputy Registrar (Establishment), Panjab University, Chandigarh by 15th November, 1996”. In Note No. 6, it was also provided that the “eligibility of every candidate will be determined on the basis of qualifications acquired by him/her upto the last date fixed for receipt of applications”. Applications were required to be submitted “in the prescribed proforma”. Otherwise, these were liable to be rejected. Candidates were required to attach the attested copies of certificates regarding their qualifications etc. Incomplete applications or “those received after the last date were liable to be rejected”. There was no provision for relaxation of this requirement.

(29) On a perusal of the advertisement, it is clear that the applications could not be entertained after the last date. Only those applications which were received by 15th November, 1996 could be considered. Those received after the last date were liable to be rejected.

(30) It is the admitted position that respondent Nos. 5 and 6 had sent their applications on 14th April, 1997. These appear to have been received in the office of the University on 24th April, 1997. The application of Dr. Sharma was processed. *Vide* note dated 29th April, 1997, (photo copy at Mark ‘A’ on the file) the office had *inter alia* observed as under :—

“The Chairman, Department of Chemistry has recommended and forwarded the bio-data of Dr. Suniti Kumar Sharma and has also stated that in view of the fact that the information about advertisement could not reach the candidate, the delay in submission of application may be condoned.

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The post of Professor in Inorganic Chemistry for the Department of Chemistry was advertised by this office under Advt. No. 10/96 and the last date for receipt of applications was 15th November, 1996. The bio-data of Dr. Suniti Kumar Sharma on plain paper without fee, copies of certificates etc. has been received in this University on 24th April, 1997 i.e. late by 5 months and 9 days.

The Screening Committee has screened all the applications received for the above post and has recommended 5 candidates to be called for interview. The recommendations of the Screening Committee have already been approved by the Vice Chancellor and the synopsis of all the eligible candidates have been prepared/bound. It is very difficult for the office to entertain this application at this belated stage when all the formalities have already been completed and as such the bio-data on plain paper of Dr. Suniti Kumar Sharma, which is late by 5 months and 9 days, may be allowed to be filed, please".

(31) The above note was endorsed by various officers. On 2nd May 1997, the Vice Chancellor had ordered the applications to be filed. It was observed as under :—

“File. In future, applications received late by or up to one month only, be put up for consideration of delay condonation”.

(Sd.) . . . ,

(T.N. Kapoor)

2nd May, 1997

(32) The application was, thus, rejected. Still further, we were informed that the office had not processed the application of Dr. K.K. Bhasin which had also been received alongwith that of Dr. Suniti Kumar Sharma in view of the above-noted orders of the Vice Chancellor.

(33) The action of the Vice Chancellor - Dr. T. N. Kapoor was in strict conformity with the stipulation contained in “Important Note” No. 8 wherein it was provided that “applications received after the last date are liable to be rejected”.

(34) On behalf of the respondents, it was pointed out that the Vice Chancellor has the jurisdiction to condone the delay in the submission of applications. A reference in this behalf was made to the decision dated 16th December, 1973 taken by the Syndicate of the

University. This decision reads as under :—

Pr. 54 (iii) “That only in exceptional cases the Vice Chancellor might pass orders giving reasons for entertaining applications received after the due date”.

(35) A perusal of the above decision shows that the Vice Chancellor can condone the delay only in exceptional cases. Still further, he has to record reasons.

(36) What is the position in the present case ? The Vice Chancellor on consideration of the matter had found no reason to condone the delay of more than 5 months in the submission of the applications by respondent Nos. 5 and 6. Thus, with the passing of the order dated 2nd May, 1997, the power to condone delay as conferred by the resolution of the Syndicate stood exhausted.

(37) Counsel for the respondents contended that respondent Nos. 5 and 6 had submitted their applications in October, 1997. The Vice Chancellor had decided to entertain these applications. Thus, there was no illegality. Is it so ? First the facts.

(38) A copy of the application received from respondent No. 5 has been produced as Annexure P. 4 with CWP No. 18782 of 1997. It appears to have been sent by fax on 12th October, 1997. So far as respondent No. 6 is concerned, he has produced a copy of the letter dated 8th/9th October, 1997 submitted by him to the Vice Chancellor through the Chairman as Annexure R6/4 with CWP No. 18781 of 1997. On a perusal of the original file, we found that the respondent No. 3 Professor S.L. Chadha—the Chairman of the Department had sent a communication dated 14th October, 1997 to the Vice Chancellor. A photo copy of the letter is at Mark ‘B’. It will be useful to notice it in extenso. It reads as under :—

“Department of Chemistry & Centre of Advanced Studies in  
Chemistry Panjab University, Chandigarh-160014 (India)

Prof. S. L. Chadha,  
Chairman

The Vice Chancellor,  
Panjab University,  
Chandigarh.

dated 14-10-1997

Sub : Late submission of applications by Dr. Suniti Kumar Sharma  
and Dr. K.K. Bhasin (Readers), Department of Chemistry for

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the post of Professor of Inorganic Chemistry/Chemical Education..

....

Dear Sir,

This has reference to my talk with you for the action on the applications for the post of Professor of Inorganic/Chemical Education by the above mentioned candidates.

It is requested that either :—

(i) the total delay in late submission of their applications may please be condoned by your goodself.

or

(ii) their applications may be considered under the following clause of Advertisement draft :—

The Vice Chancellor could place before the Selection Committee names of suitable persons for its consideration alongwith the applications received in response to the advertisement.

As both these persons are excellent teachers/Research Workers, I strongly recommend that they may be allowed to attend the interview before the Selection Committee (in absentia), under above mentioned clause (i) or (ii) as your goodself deems fit. The details of their biodata has already been submitted to your office, it may be mentioned for your kind information that Dr. K.K. Bhasin has come back from USA whereas Dr. Suniti Kumar Sharma is still abroad.

Yours sincerely,

(Sd.). . . ,

(S. L. Chadha)"

(39) It appears that on the same day, the Vice Chancellor had approved the proposal at Sr. No. (i).

(40) Mr. Patwalia contended that the order was procured from respondent No. 2 without disclosing the full facts.

(41) It is clear that the letter was not sent by the Head of the Department through the office. It was not processed. The fact that the request for condonation of delay had already been rejected by the former

Vice Chancellor on 2nd May, 1997 was not disclosed. Why did the third respondent keep it back? The counsel could say nothing. Still further, the Vice Chancellor, according to the decision of the Syndicate could have condoned delay only in "exceptional cases" and by "giving reasons". In the present case, there was no reference to the decision of the Syndicate. Neither respondent No. 3 nor respondent No. 2 had observed that it was an 'exceptional' case. Respondent No. 2 had recorded no reasons for condoning the delay. Thus, the order of the Vice Chancellor did not even conform to the requirements of the decision of the Syndicate.

(42) In every advertisement, the concerned authority stipulates the last date for submission of applications. This has a purpose to serve. Firstly, it furnishes a cut off point on the basis of which the eligibility is determined. Secondly, it ensures equality of opportunity to all the candidates. Still further, it is not unknown that whenever an authority considers it appropriate to relax the qualifications or the requirement regarding submission of applications by the last date etc., it makes a specific provision in that behalf in the advertisement. In the advertisement in the present case, it had been provided that the number of posts can be changed. However, so far as the last date is concerned, it was categorically provided that the applications received after 15th November, 1996, were liable to be rejected. We have found no reason to justify the action of the respondents in not standing by the stipulation in the advertisement and following the prescribed yardstick.

(43) The language of the advertisement is prohibitive. It was indicative of the intention to reject applications which were not received by the stipulated date. This stipulation was not open to alteration at the whim of the authority. It could not be changed without notice to the public at large. If the University intended to entertain applications received after the due date, it had to issue a notice to the public so that others who may have failed to submit applications for good reason may get a chance. Equally, even those persons who had become eligible after 15th November, 1996 could have offered their candidature. In the present case, the University did not issue any corrigendum. It did not afford any opportunity to others. In our view, the University erroneously relaxed the rigour of the advertisement. It erred in entertaining the applications of respondent Nos. 5 and 6 after the last date.

(44) On behalf of the respondents, it was contended that they were staying abroad. They had not become aware of the advertisement. The claim made on behalf of the respondents was controverted by the counsel for the petitioners.

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(45) Whatever be the factual position, the advertisement gave only one concession to the persons staying abroad. It granted them exemption from submitting the applications in the prescribed proforma. At the end of the advertisement, it was provided that 'candidates abroad' may apply on plain paper. It was still incumbent on them to submit 8 copies of the bio-data. They had to submit a fee of Rs. 75. The petitioners have averred that they had not complied with these conditions. This was not disputed on behalf of the respondents. Thus, the mere fact that they were staying abroad at the relevant time was of no consequence. Still further, nothing has been placed on record to show as to how the petitioners had suddenly become aware of the advertisement in April, 1997. There is more than what meets the eye.

(46) Faced with the above, the respondents, had suggested that the Vice Chancellor had the power to place the case of even a person who was not an applicant before the Committee. Thus, in the present case, it should be assumed that the cases of respondent Nos. 5 and 6 were rightly placed before the Selection Committee by the Vice Chancellor. Reliance was placed by the counsel on the provisions of Regulation 4 in Chapter VI of the Panjab University Calendar. It reads as under :—

“Whenever there is a vacancy in the post of a Teacher, the post shall be advertised and applications invited before the vacancy is filled, provided that the Vice Chancellor shall have power to place before the Selection Committee the name of suitable persons for its consideration along with the applications received in response to the advertisement”.

(47) It is undoubtedly correct that the provision authorises the Vice Chancellor to place the name of a suitable person before the Selection Committee. In fact, such a power had been reserved even in the advertisement. In the present case, the plea raised on behalf of the respondents cannot be sustained. In the letter dated 14th October, 1997 which has been reproduced above, respondent No. 3 had clearly made two suggestions. He had suggested that either the delay in late submission of the applications be condoned or that the applications be considered under the provision contained in the advertisement which provided that “the Vice Chancellor could place before the Selection Committee names of suitable persons....” The Vice Chancellor had approved the first proposal and not the second. The Vice Chancellor having not approved the second proposal, it cannot be said that the consideration of the applications of respondent Nos. 5 and 6 was referable to regulation 4 as reproduced above. The record belies the suggestion.

(48) Still more, it deserves notice that the provision in Regulation 4 is intended to be invoked in case of persons of eminence who would not normally apply for a job. The respondent Nos. 5 and 6 in the present case had offered their candidature. Their request for even condonation of delay had been rejected on 2nd May, 1997. The Vice Chancellor had never placed their cases before the Selection Committee. Thus, the plea as raised on behalf of the respondents cannot be sustained.

(49) In view of the above, the first question is answered in the affirmative. It is held that the candidature of respondent Nos. 5 and 6 could not have been considered as their applications had not been received by 15th November, 1996.

Reg : (ii) : Is the selection vitiated by bias ?

(50) The detailed averments made in the writ petition as also those in the written statements have been noticed. The petitioners have suggested that respondent Nos. 4 and 5 are class-fellows. It has been further suggested that respondent No. 5 had arranged the employment of respondent No. 6 with SRI International. Still further, respondent No. 3 Prof. S. L. Chadha and respondent No. 4 Prof. B. D. Gupta had been invited to America. The two respondents had enjoyed the hospitality of respondent Nos. 5 and 6. The respondents have denied these allegations. Still, certain facts stare us in the face.

(51) Mr. S.S. Shergill, counsel for respondent No. 3 produced before us a photo copy of the letter dated 19th November, 1996 by which Prof. Chadha, Chairman of the Department was invited to SRI International. This letter was taken on record as Mark 'C'. The opening paragraph of this letter reads as under :—

“On behalf of SRI International, I am pleased to offer you an appointment as an International Fellow in the Polymer Chemistry Department of the Science and Technology Group. This assignment is for 1 month beginning on 7th January, 1997 and ending on or about 31st January, 1997. SRI will pay you a stipend of \$ 2250 per month. You will be working under the direction of Dr. Subash Narang, Director. Your immediate supervisor will be Suniti K. Sharma”.

(52) It was not disputed that Dr. Subhash Narang and Dr. Suniti Kumar Sharma are class-fellows. This fact is even borne out from the Gazette notification giving the result of B. Sc. Honours School. A copy of this notification is at Annexure P. 7 with the writ petition. It is further clear that respondent No. 3 was to work under the supervision of Dr. Sharma. At the lowest, this letter establishes that respondent Nos. 3 and 5 knew each other. Despite this, respondent No. 3 states in para

11 of his written statement that he had "no role whatsoever in respondent Nos. 5 and 6 making applications for the posts in question". In para 12, he adds that respondent Nos. 5 and 6 did make applications which were processed by the competent authority as per University Regulations and it is for respondent Nos. 1 and 2 (to) furnish the details". Still further, in para 13 of the written statement, he states as under :—

"The allegations that the answering respondent played any role in making the applications by respondent No. 5 and 6 is wrong and denied. The answering respondent only acted in accordance with rules and regulations in his capacity as a Chairman of the Department. About the acceptance of the application, as per University regulations, it is for respondent Nos. 1 and 2 to reply.

(53) Thus, the third respondent is repeatedly trying to show that he had played no role. The applications were processed by the competent authority in accordance with the University Regulations. Respondent Nos. 1 and 2 have to give the facts. What he conceals is the fact that he had written the letter dated 14th October, 1997. Thus, only he had processed the applications. The contents of this letter have been noticed above. A perusal of this letter shows that he had clearly suggested to the Vice Chancellor that the delay in the late submission of the applications should be condoned. He had opined that both the candidates "are excellent teachers/research workers". He had "strongly recommended that they may be allowed to attend the interview before the Selection Committee/(*in absentia*)...." It appears the Dr. Chadha is not disclosing full facts to the court. Not even his own letter.

(54) Not only this. The petitioner has averred in the petition that respondent No. 5 had gone to America in the year 1988. In paragraph 15, the petitioner has further averred that "respondent No. 5 is working in America. He has not so far come and joined as Professor in Inorganic Chemistry". Respondent No. 3 in reply to para 15 states that the "contents of this para are wrong to the extent that respondent No. 5 has not joined. In fact, respondent No. 5 already joined as Professor in Inorganic Chemistry". Respondent No. 5 in para 7 of his written statement asserts that he "assumed his duties of the post on 13th February, 1998". Still further, in reply to para 15, he has stated that "after the selection of replying respondent was approved by the Syndicate and Senate and letter of his appointment was issued, he joined the post on 13th February, 1998". Is this the whole truth? The petitioner has filed replications. In the replication, he has averred that "the favouritism being shown by the University to respondent No. 5 is that after his selection, respondent No. 5 came to India for a day. He

joined against the post of professor and left the next day back for USA". Thereafter, the petitioner filed CM No. 26345 of 1999. In this application, he *inter alia* pointed out that Dr. S.K. Sharma was absent from duty. The matter was considered by the Syndicate in its meeting of 24th August, 1999. It had resolved and recommended that the post be declared vacant. On this basis, it was prayed that the post be declared vacant. On behalf of the respondents, it was stated that respondent No. 5 had actually joined. When pressed, it was found that respondent No. 5 had come to India and submitted a joining report on 15th November, 1999. He had again asked for leave and left for America.

(55) Respondent No. 3 had filed the written statement in May 1998. He would have surely known that respondent No. 5 had only submitted his joining report on 13th February, 1998 and not worked thereafter. Why has he withheld this information from the court ?

(56) As against this, while replying to para 3 of the writ petition wherein the petitioner has mentioned his qualifications and experience etc., respondent No. 3 denies the averments "for want of knowledge".

(57) On a cumulative consideration of the material on record, it is clearly established that respondent No. 3 had gone to America. He had worked under the supervision of respondent No. 5. He had not merely forwarded the applications of respondent Nos. 5 and 6 but even made strong recommendations. He had opined that they were "excellent teachers/Research Workers". Not only that. He had even spoken to the Vice Chancellor regarding their applications. While filing the written statement, the respondent has tried to keep back relevant information which was within his knowledge. Should we still believe him ? Should we still hold that he was acting objectively and was not biased ? We find it difficult to accept his plea.

(58) It also deserves mention that even respondent No. 4 had visited SRI International. He does not claim that he did not know respondent Nos. 5 and 6. In fact, it was repeatedly said by the counsel for the petitioners that respondent Nos. 4 and 5 are old classfellows. The factual position was not controverted by Mr. Shergill. Despite this position, respondent No. 3 considered it appropriate to recommend the name of respondent No. 4 as an expert for inclusion in the selection committee. Why ? The reason is not difficult to imagine. We are not surprised that while considering the claim of respondent No. 6, Prof. D.V.S. Jain had considered it appropriate to record his dissent. In fact, he has filed a short reply. He has pointed out that he has been a Professor of Chemistry since 1976. He has been a Dean of Science Faculty, Director of Regional Sophisticated Instrumentation Centre and Chairman of the Chemistry Department. He has also been Editor of

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Publications and Secretary, Indian National Science Academy, New Delhi. He has received several national awards and academic honours. He is on various bodies. He has averred that to be eligible for appointment as Professor in Chemical Education, the person should have contributed "in the field of Chemical Education. Every Chemistry Professor is not a Chemical Education Expert". He has named a few persons who have excelled in the field. He has lamented that unfortunately none of the external experts in the selection committee meeting was the Chemical Education Expert. He has further stated as under :—

"That in the Selection Committee meeting, the answering respondent felt that an injustice was being done to the petitioner. The answering respondent with his vast experience could see from the bio-data of the candidates that though Dr. K.K. Bhasin had a good career, he had no research publication in the field of Chemical Education. The petitioner Dr. A. K. Bakshi who was already occupying the prestigious Sir Shankar Lal Chair as Professor of Chemistry in the University of Delhi, on the other hand, had an excellent academic record and outstanding contributions in the field of Chemical Education besides his other research contributions. Dr. Bakshi had also been appointed as a Joint Chief Editor of the UGC—sponsored journal 'Chemistry Education Review'. He had also been very actively engaged in the various academic activities of the UGC, NCERT, All India Radio and Doordarshan including those of making Video Films on Concepts in Chemistry. Not only this, Dr. Bakshi had also been elected as a Fellow of the National Academy of Sciences (FNASc), Allahabad in 1997 in recognition of his outstanding research contributions.

In view of this, the answering respondent could not agree when the candidature of Dr. Bhasin was being pushed up for selection as Professor of Chemical Education and therefore dissented." (emphasis supplied).

(59) The above observations belie the suggestion of a fair and objective consideration.

(60) It is undoubtedly correct that respondent Nos. 3 to 6 have denied the allegations of bias. Yet, we have to remember that bias cannot be proved like a chemical reaction. It is a state of mind and has to be inferred from the circumstances of a case. In the present case, the facts as apparent on the record leave a lot to desire. We cannot particularly compliment respondent No. 3. In our view, the selection was lacking in fairness.

*Reg : (iii) : Are the petitioners estopped from challenging the selection of respondent Nos. 5 and 6 ?*

(61) Mr. Sarin vehemently contended that the petitioners having participated in the interview, they were estopped from challenging the selection. Counsel referred to the decisions in *M/s Panna Lal Binjraj vs. Union of India (1)*, *Manak Lal, Advocate vs. Dr. Prem Chand Singhvi and others (2)*, *Dr. G. Sarana vs. University of Lucknow and others (3)* and *Swaran Lata vs. Union of India and others (4)*.

(62) It is undoubtedly correct that no one should be allowed to sit on the fence. If a person is fully aware of the factual position and yet, appears before the selection committee, he may be confronted with the objection of estoppel when he chooses to impugn the constitution of the committee. However, it is necessary to establish that the person was aware of the factual position. In the present case, respondent No. 3 has categorically pleaded that the constitution of the selection committee was confidential. In para 8, he has averred that "it was the Vice Chancellor who constituted the Selection Committee and the answering respondent was the member of the Selection Committee in his capacity as a Chairman of the Chemistry Department. At no stage before the date of these selections in question, the answering respondent was informed as to who were the other members of the Selection Committee". Surely, if the Head of the Department did not know about the constitution of the Selection Committee, how could the petitioner? Still further, it has to be shown that the petitioners were aware of the factual position regarding the *inter se* connection of the members of the Selection Committee and the selected candidates. On the material on record, we are unable to record a firm finding that the petitioners were aware of the connections even before they appeared for the interview. Thus, the objection as sought to be raised on behalf of the respondents cannot be sustained. The third question is, accordingly, answered against the respondents.

(63) It was contended that the two members of the Selection Committee having not been impleaded, the challenge to the selection cannot be sustained.

(64) The contention is misconceived. The petitioners have impleaded the persons against whom allegations of bias were made. It

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- (1) A.I.R. 1957 SC 397
- (2) A.I.R. 1957 SC 425
- (3) 1976 (2) SLR 509
- (4) 1979 (1) SLR 710

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was not incumbent upon them to implead all members of the Selection Committee.

(65) The counsel contended that the petitioners had not impugned the resolution of the Syndicate and the Senate. The petitioners have challenged the selection and appointment. This includes all the events leading to the ultimate appointment. It has not been shown that the decisions of the Syndicate are circulated by the University to the candidates. Thus, the claim can't be rejected on this ground. Still further, the selection itself being illegal, its ratification by the Syndicate and Senate does not rectify the basic illegality.

(66) The courts are normally reluctant to enter academic thickets. When selections are made by duly constituted selection committees, the courts do not weigh *inter se* merits or opine on the suitability of candidates. In the present case, however, we feel constrained to intervene because we are satisfied that failure to interfere shall lead to failure of justice. The candidature of Respondent Nos. 5 and 6 was wrongly considered. Their selection was not legal and fair.

(67) It also deserves mention that respondent No. 5 had admittedly gone to America in the year 1988. He has been on leave for the last about 11 years from the University. He has not been teaching at the Panjab University since the year 1988. Yet, respondent No. 3 did not hesitate to describe him as an excellent teacher/Research Worker. A post of Professor at the University is filled up for the benefit of the students. Respondent No. 5 has delivered no lectures for the last 11 years. He has only submitted his joining report on two occasions viz. 13th February, 1998 and 15th February, 1999. This was only on paper. Otherwise, he has been continuously on leave. We are not surprised that counsel for the petitioners felt compelled to allege that the University was being too kind to him. Equally, we are not surprised that the counsel for respondent No. 5 Mr. M.L. Sarin produced before us a fax letter dated 16th December, 1999 from the respondent to the effect that due to his "present involvement in very prestigious projects at SRI International USA", he "will not be able to join the University". Thus, he was resigning from the post. On a perusal of the letter, which is taken on record as Mark 'D', we are satisfied that it was only an attempt to retain the label of 'Professor'.

(68) In view of the above, we allow both the writ petitions. The selection and appointment of respondent Nos. 5 and 6 are quashed. The University shall conduct a fresh selection in accordance with law. The needful shall be done within three months from today.

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**R.N.R.**