

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitutional Petition No.D- 1477 of 2024.

Present:

Mr. Justice Muhammad Saleem Jessar.

Mr. Justice Zulfiqar Ali Sangi.

Petitioner Faheem-ur-Rehman Halepoto in person.

Respondents P.O Sindh and others through Mr.Ali Raza Baloch,
Additional Advocate General a/w Shakeel Ahmed
Abro, Controller of Examinations, SPSC.

Date of hearing: 09.12.2024

Date of order : 09.12.2024.

ORDER.

ZULFIQAR ALI SANGI-J.:- Through this petition, the petitioner prays

as under:

- (a) *That this Honourable Court may be pleased to issue writ declaring thereby the acts of Respondent No.2 of failing to maintain transparency in appointment process of the Head Master as illegal ab-intio, null and void, arbitrary in nature and having no legal sanctity and violation of Article 4, 9, 25 and 27 of the Constitution of Islamic Republic of Pakistan, 1973.*
- (a) *To declare the Recommendations issued through Press Release dated 02.08.2024 by the respondent No.2 for appointment to the post of Head Master as illegal and nullity and may be pleased to set-aside the Notification dated 02.08.2024 issued in shape of Press Release.*
- (b) *To direct the respondent No.2 to consider the petitioner for the recruitment of Head Master as he is eligible and has passed written and viva voce/interview as per requirement and eligibility of SPSC.*
- (c) *To direct the respondent No.2 to conduct the interviews of candidates declared pass by Notification dated 02.08.2024 afresh through third party and then declare the result.*

(d) To suspend the operation of impugned Notification dated 02.08.2024, till the final disposal of this petition.

(e) To grant any other equitable relief, which this Honourable Court deems fit and proper in the circumstances of the case.”

2. The petitioner claims that in response to the advertisement dated 05.02.2021, he applied for the post of Head Master (BPS-17) in the School Education Department and participated in the written test conducted by respondents/Sindh Public Service Commission (SPSC) in which he obtained 43.5 marks. Thereafter, he was called for the interview/viva voce in which he appeared and answered correctly to the majority of questions put to him by interviewer, however, the respondents have declared him as failed in the final merit list, therefore, he has maintained the instant petition.

3. On 16.10.2024, this Court while issuing notices to the respondents also issued directions to bring the copy of video recording of the interview pertaining to the post of Head Master (BPS-17) in Education & Literacy Department Govt. of Sindh held in February, 2024. In compliance thereto, on 14.11.2024 the respondents placed before the Court USB containing video recording of the interview conducted by the respondents/SPSC in the sealed envelope and requested the Court that it may not be handed over to the petitioner being the confidential record, however, same can be played by I.T Department of this Court in the office of Additional Registrar of this Court in presence of petitioner and officials of SPSC and then same be returned to maintain confidentiality. The USB was taken and played on the same day in I.T Department in presence of Additional Registrar, petitioner and officials of SPSC and matter was adjourned.

4. Today, comments in terms of order dated 02.12.2024 are filed by the respondents No.2 and 3 and petitioner also filed objections under cover of statement dated 09.12.2024, taken on record. The stand of the respondents/SPSC is that although petitioner qualified written test securing 43.5 marks, and he was called for the interview in which he appeared but did not respond correctly to the majority of questions put to him during viva voce, however, only few of the questions were answered by him correctly for which he secured 56 marks (total 99.5 Marks), while the last recommended candidate for the said post obtained total 111 marks, therefore, the petitioner was declared as failed in the said interview. Respondents have further urged that the petitioner himself has seen video recording of his own interview in presence of Additional Registrar of this Court. When confronted, the Petitioner admitted that he has seen the video recording in which visibly he has given few answers to questions correctly; however, he was unable to give correct answers to the rest of the questions put to him by interviewer. Though, there was record available with the respondents in the shape of the video recording however, in case of non-availability of such record it was very difficult to hold that the petitioner had given satisfactory response to the questions put to him in viva voce or not. In the absence of any video recording, had the petitioner claimed to have answered all questions correctly, and the respondents denied such a claim, the dispute would have necessitated the recording of evidence, which could not be undertaken under writ jurisdiction of this Court.

5. In the similar circumstances, the Hon'ble Supreme Court in the case of Waheed Gul Khan and another v. Province of Sindh and orders (2024 SCMR 1701) held as under:

9. An interview is inherently a subjective evaluation, and a Court of law does not have jurisdiction to substitute its opinion with that of the Interview Board

to provide relief to anyone. The role of the Interview Board is to evaluate candidates based on a variety of subjective criteria, which may include interpersonal skills, presentation, and other intangible qualities that are difficult to measure objectively. These assessments are inherently qualitative and depend on the opinion of interviewers, who are appointed for their expertise and ability to make such evaluations. However, this does not mean that the decisions of the Interview Board are beyond scrutiny. If there were any indications of *mala fides*, bias, or significant errors in opinion that are apparent from the records, the Court would certainly be compelled to intervene.

10. This court in the case of *Muhammad Ashraf Sangri v. Federation of Pakistan* (**2014 SCMR 157**), has ruled that;-

“Essentially an interview is subjective test and it is not possible for a Court of law to substitute its own opinion for that of the Interview Board in order to give the petitioner relief. What transpired at the interview and what persuaded one member of the Board to award him only 50 marks is something which a Court of law is certainly not equipped to probe and to that extent we cannot substitute our own opinion with that of the interview Board. Obviously if any mala fides or bias or for that matter error of judgment were floating on the surface of the record we would have certainly intervened as Courts of law are more familiar with such improprieties rather than dilating into question of fitness of any candidate for a particular post which as observed above is subjective matter and can best be assessed by the functionaries who are entrusted with this responsibility.....”

11. It is an admitted position that petitioners passed the written examination but did not succeed in the interview, which was a mandatory requirement for the test. Written test measures a candidate’s knowledge and expression skills but does not evaluate important personality traits like communication skills, leadership qualities, and decision-making abilities. These traits are assessed during the interview. The interview process allows evaluators to see how candidates interact and respond in real-time, offering a complete picture of their suitability for the job. In the instant case, however, the petitioners failed to pass the interview examination as they did not meet the necessary standards in the interview. Thus, learned High Court was correct in its view that constitutional

jurisdiction cannot be invoked for challenging the interview process.”

6. The petitioner was declared failed in the interview by the respondents (SPSC), however, if the petitioner qualified the same even then such qualification in the interview does not create any vested right for appointment to a specific post as was held by the Supreme Court in the case of Secretary Finance and others v. Ghulam Safdar (2005 SCMR 534) wherein the Supreme Court has held as under:

“10. Be that as it may, it is difficult to sustain the prayer of the respondents since mere selection in written examination and interview test would not, by itself, vest candidates with a Fundamental Right for enforcement as such in the exercise of Constitutional jurisdiction of the High Court. Admittedly, the appellants had not issued any offer of appointment to the respondents and their appointment was subject to clearance by the Establishment Division under the Centralised System of Recruitment till it was discontinued in November, 1996, which again coincided with the imposition of ban on fresh recruitments, which could not be safely ignored by the appellants...”

7. For what has been discussed above, we are convinced with the stand taken by the respondents/SPSC that the petitioner could not qualify the interview and he was rightly declared as failed in the final merit list. Resultantly, instant petition being misconceived is hereby dismissed with no order as to cost.

JUDGE

JUDGE