

CHANDRA PRAKASH SINGH & ORS.

v.

CHAIRMAN, PURVANCHAL GRAMIN BANK & ORS.  
(Civil Appeal No.1495 of 2008)

FEBRUARY 22, 2008

[P.P. NAOLEKAR & LOKESHWAR SINGH PANTA, JJ.]

*Regional Rural Banks Act, 1976 : s.29 – Malafide and arbitrariness – Burden to prove – Result of written test for post of officer in Gramin Bank challenged by unsuccessful candidates on the ground of bias and mala fides by the then Chairman of Bank – High Court ordered State Government to conduct inquiry – Inquiry committee submitted report regarding improper functioning of Bank – High Court dismissed writ petition – On appeal, held: Inquiry ordered to be conducted by State Government in regard to mismanagement and other irregularities of Bank, was ex parte without giving any intimation to the Board of Directors of the Bank – State Government ex facie does not exercise any control over the Gramin Bank as it is governed by the policies of Central Government under s.29 – Also examining body not made party in writ petition – Burden of proving bias is heavy on the person who alleges it – No specific and definite real danger of bias has been made to indicate how Chairman was in a position to influence or manipulate the result of the written test – Hence, interference with the order of High Court not warranted.*

The respondent Gramin Bank was constituted under s.3 of the Regional Rural Banks Act, 1976. In the year 2001, 47 posts of Scale II officer and 16 posts of Scale I officer were required to be filled in the Gramin Bank. The Board of Directors of the Gramin Bank approved the holding of the written examination by the Institute of Banking Personnel Selection, Mumbai for filling up these posts. All the appellants appeared at the written test held on

A 18.8.2002 without any protest. The names of appellants did not appear in the list of successful candidates.

B The appellants filed writ petition in the High Court praying for quashing of the test held on 18.08.2002 on the ground that the test was conducted by the then  
C Chairman of the Gramin Bank, Respondent No.10, in spite of the fact that his real brother and cousin who were working as clerk-cum-cashiers, were also the candidates for promotion to the post of officer Scale I. Respondent No.10 on 28.05.2004 was transferred but he still declared the result of the examination on 1.6.2004. The State Government appointed inquiry committee which submitted its report on 18.07.2004.

D The two member committee appointed by the State Government in its report made certain observations that respondent No.10 had declared the result of the written test on 1.6.2004, despite the fact that he stood transferred on 28.5.2004, the answer-sheets should not have been sent to the Banking Institute, Mumbai, by courier service and the answer-sheets and the question papers were not  
E kept in the joint custody, but the respondent No.10 had kept them in his own custody and that one candidate had appeared at the examination even though he was on leave are not substantiated by any evidence.

F The appellants prayed that in view of the report submitted against improper functioning of the officers of the Gramin Bank, the examinations should be cancelled and fresh examinations be conducted. As per records, after the written test was held on 18.08.2002, the Workers'  
G Association of the Gramin Bank had filed a civil suit in which an injunction was granted and the result of the written test was not declared. On 31.05.2004, the trial Court rejected the application for grant of temporary injunction. Thereafter the candidates were called for interview after  
H declaration of the result of the written test.

The High Court dismissed the writ petition of the appellants holding that the Banking Institute, Mumbai, an examining body, was not a party in writ petition; that the appellants have failed to prove allegation of mala fide against respondent no. 10; that the appellants are estopped from challenging the examination held on 18.8.2002 as they had participated in the said examination; that the appellants were members of Workers' Union who filed the suit in the trial Court and as such they were playing hide and seek with the Court. Hence the present appeal.

Dismissing the appeal, the Court

HELD : 1. The merit list of the successful candidates was prepared by the Banking Institute, Mumbai which was sent to the Gramin Bank. The list containing the names of the selected candidates was placed on the Notice Board by respondent No.10 being Chairman of the Bank on 1.6.2004. In between the holding of the written test on 18.8.2002 and placing the select list of the successful candidates on the notice board on 1.6.2004, there was an interim injunction order operating against the Gramin Bank not to declare the result passed by the Civil Court in suit filed by the Workers' Association of the Gramin Bank which was subsequently vacated on 31.5.2004 permitting the Gramin Bank to hold the interview after declaration of the result of the written test. Respondent No.10 was transferred on 28.5.2004 but he had not relinquished the charge till the date of declaring the result of the written test. It is also established on record that on 7.6.2004, the successor Chairman of respondent No.10 placed the same merit list of the successful candidates on the Notice Board for the inspection of the candidates. The names of the appellants did not appear in the said select list. The personal interviews of the successful candidates were held on 23/24.9.2004. The inquiry ordered to be conducted by the State Government in regard to

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A the mismanagement and other irregularities etc. of the  
Gramin Bank, was ex parte without giving any intimation  
to the Board of Directors of the Gramin Bank. The State  
Government ex facie does not exercise any control over  
the Gramin Bank since under s.29 of the Regional Rural  
Banks Act, the Gramin Bank is governed by the policies  
of the Central Government. The appellants have not made  
the Banking Institute, Mumbai, who conducted the  
examination, as party in writ petition nor any allegation of  
mala fide or mal-practice has been alleged against the  
institution. The appellants have also not made brother  
and cousin, respectively of the respondent No.10 as  
parties in the writ petition who, admittedly, were the  
successful candidates in the written test for the posts in  
question. The written test was not conducted by  
respondent no.10 nor was he heading the selection  
committee. [Para 17] [304-C-H; 305-A-D]

*State of Punjab v. V.K. Khanna and Ors. (2001) 2 SCC 330; Dhampur Sugar (Kashipur) Ltd. v. State of Uttaranchal and Ors. (2007) 8 SCC 418– Relied on*

E *Jitendra Kumar & Ors. v. State of Haryana & Anr. 2007 (14) SCALE 125 – distinguished*

F *Ashok Kumar Yadav & Ors. v. State of Haryana & Ors (1985) 4 SCC 417 and Krishna Yadav and Anr. v. State of Haryana & Ors (1994) 4 SCC 165 – referred to*

G 2. The allegations by appellants were absolutely vague, indefinite and did not contain sufficient material as required under law in support thereof. The appellants have not established on record that respondent No.10, the then Chairman, was an instrument in getting his brother and cousin through in the written examination and later on it was under his influence that the Selection Committee had selected his two relatives for the posts in question. [Para 17] [305-G-H]

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*Tara Chand Khatri vs. Municipal Corporation of Delhi & Ors. AIR 1977 SC 567; E.P. Royappa v. State of Tamil Nadu & Anr. AIR 1874 SC 555, M/s. Sukhwinder Pal Bipan Kumar & Ors. v. State of Punjab & Ors. AIR 1982 SC 65 and M. Sankaranarayanan, IAS v. State of Karnataka & Ors. AIR 1993 SC 763 – relied on*

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3. The burden of proving mala fide is very heavy on the person who alleges it. Mere allegation is not enough. Party making such allegations is under the legal obligation to place specific materials before the Court to substantiate the said allegations. There has to be very strong and convincing evidence to establish the allegations of mala fides specifically and definitely alleged in the petition as the same cannot merely be presumed. The presumption under law is in favour of the bona fides of the order unless contradicted by acceptable material. In the present case, no specific and definite real danger of bias has been made against respondent no.10 to indicate how he was in a position to influence or manipulate the result of the written test conducted by the Banking Institute, Mumbai. There are no specific pleadings nor any proof thereof in the writ petition filed by the appellants. In such circumstances, the Court is under no obligation to entertain the pleas of mala fide or arbitrariness. [Para 19] [306-F-H; 307-A]

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4. The mere assertion of the appellants that one selected candidate could not have appeared in the written test, because during the relevant time he was on leave, in the absence of any supporting evidence cannot be accepted. Further, no infirmity or illegality appears to have been committed by the then Chairman, Gramin Bank, by sending the answer books to the Banking Institute, Mumbai, by courier service. The Gramin Bank has categorically stated that the question papers and answer-sheets were kept in the joint custody of the Chairman and one Director of the Bank. The report submitted by the State

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A Committees also did not indicate in any manner whatsoever that there was some fault with the written examination. There is no averment whatsoever in the report which may indicate that the list of the successful candidates was not in accordance with the merits of the candidates prepared by the examining body. The appellants have been given fair treatment in the written test held by the Institute but as they had failed to qualify the test, they, on any legitimate ground, cannot be permitted to allege wholly unfounded, irresponsible and uncalled for allegations of favoritism or mala fide against respondent No.10. For the lack of specific and definite allegations of mala fide in the writ petition supported by the evidence in proof of such facts of mala fides, the writ petition of the appellants has been rightly rejected by the High Court. There is no infirmity or perversity in the reasoning of the High Court warranting interference in this appeal. [Para 20] [307-G-H; 308-A-E]

CIVILAPPELLATE JURISDICTION : Civil Appeal No. 1495 of 2008.

E From the final Judgment and Order dated 27/1/2005 of the High Court of Judicature at Allahabad in CMWP No. 38011/2004.

F Raju Ramachandran, Ravindra Kumar, Raj Kumar Gupta, Sheo Kumar Gupta, Arun Yadav, R. Mishra, Mukesh Kumar Singh and A.N. Bardiya for the Appellants.

G M.N. Krishnamani, D.K. Agarwal, Rameshwar Prasad Goyal, Anil Kumar Pandey, Pankaj Kumar Singh, K.L. Janjani, Dhruv Mehta and Yashraj Singh Deora (for M/s. K.L. Mehta & Co.) for the Respondents.

The Judgment of the Court was delivered by

**LOKESHWAR SINGH PANTA, J.** 1. Leave granted.

H 2. This appeal by special leave filed by Shri Chandra

Prakash Singh and others [hereinafter referred to as the 'Appellants'] is directed against the Judgment and Order dated 27.01.2005 passed by the Division Bench of the High Court of Judicature at Allahabad in Civil Misc. Writ Petition No.38011 of 2004. By the impugned judgment, the High Court dismissed the Writ Petition in which prayer for quashing of the examination for promotion of the Clerk-cum-Cashier and Officer Scale I to the post of Officers Scale-I and Officer Scale-II respectively and for quashing the resolution passed by the Board of Directors of the Gramin Bank on 28.08.2004 and other consequential reliefs, came to be dismissed.

3. The relevant and necessary facts giving rise to the filing of the appeal may be stated. Basti Gramin Bank [hereinafter, referred to as 'Gramin Bank'] is one of the Regional Rural Banks constituted under Section 3 of the Regional Rural Banks Act, 1976 [hereinafter referred to as 'the Act']. Section 6(2) of the Act lays down that Gramin Bank is sponsored by the State Bank of India which has got 35% shareholding, whereas the Government of India has got 50% shareholding while State of U.P. has got balance 15% shareholding. The Central Government in exercise of the powers conferred by Section 29 read with Section 17 of the Act, after consultation with the National Bank and the Sponsor Bank, notified the Regional Rural Banks (Appointment and Promotion of Officers and Other Employees) Rules, 1998 [hereinafter referred to as 'the Rules']. The Third Schedule of the Rules deals with the appointment to different categories of officers and other employees to Group A, B and C either by direct recruitment or by promotion. Clause 2 of the Schedule deals with the promotion/appointment to the post of Scale II Officer while Clause 3 deals with the promotion/appointment to the post of Scale I officer. Clause 2 also provides that the post of Scale II Officer shall be filled entirely by promotion on the basis of seniority-cum-merit. It further provides that the selection of the candidates shall be made by the Committee on the basis of written test, interview and assessment of Performance Appraisal Report for the preceding five years as

A an officer in Scale I and that the Committee for considering  
promotion shall consist of the Chairman of the concerned  
Regional Rural Bank, a Director nominated by the Sponsor Bank  
and a Director nominated by the National Bank. Sixty (60) marks  
are prescribed for the written test while twenty (20) marks are  
B fixed for the interview test and twenty (20) marks for Performance  
Appraisal Report. So far as the promotion/appointment to the  
post of Scale I officer is concerned, Clause 3 provides that 50%  
shall be appointed by direct recruitment and 50% by promotion  
and that promotions shall be made on the basis of seniority-  
C cum-merit. In the case of direct recruitment, the selection of  
candidates shall be made by the Banking Services Recruitment  
Board on the basis of written test and interview, while in the  
case of promotion, the selection of the candidates shall be made  
by the Committee on the basis of written test, interview and  
D Performance Appraisal Report. The composition of the  
committee is the same as in the case of promotion/ appointment  
to the post of Scale II officer but 70 marks have been prescribed  
on the basis of the written test, 20 marks have been allotted for  
interview and the remaining 10 marks for Performance  
E Appraisal Report.

4. In the year 2001, 47 posts of Scale II officer and 16  
posts of Scale I officer were required to be filled in the Gramin  
Bank. The Board of Directors of the Gramin Bank in its meeting  
held on 20.09.2001 approved the holding of the written  
F examination by the Institute of Banking Personnel Selection,  
Mumbai [hereinafter referred to as 'the Banking Institute,  
Mumbai']. A Circular was issued on 09.07.2002, fixing 18<sup>th</sup>  
August, 2002 the date on which the written test was stated to  
be held. All the appellants appeared at the written test without  
G any protest on any ground whatsoever.

5. It appears from the record that one Mr. Tiwary, Director  
of Gramin Bank on 22.10.2001 made a complaint to the Finance  
Minister, Government of India, giving details of corruption and  
financial irregularities committed by the officers of the Gramin  
H Bank. On 25.06.2002, Uttar Pradesh Gramin Bank Officers and

Workers Organization alleged to have submitted a complaint to the Chief General Manager, State Bank of India, against the Chairman of the Gramin Bank. A

6. The appellants filed writ petition in the High Court of Allahabad praying for quashing of the test held on 18.08.2002 *inter alia* on the ground that the test was conducted by the then Chairman of the Gramin Bank, Sri Zameer Hasan – Respondent No.10 herein, in spite of the fact that his real brother-Syed Mohd. Rizvi and cousin-Kazim Hussain Rizvi who were working as Clerk-cum-Cashiers, were also the candidates for promotion to the post of officer Scale I. Respondent No.10 on 28.05.2004 was transferred as General Manager of the Gramin Bank, Deorai, but he still declared the result of the examination on 01.06.2004. The State Government appointed inquiry committee consisting of two officers of the Directorate of Institutional Finance, Lucknow. The Committee submitted its report on 18.07.2004 which was forwarded to the Gramin Bank by the Secretary, Banking Department, Government of U.P. through communication dated 27.07.2004. The appellants prayed that in view of the report submitted against improper functioning and acts of commission and omission of the officers/officials of the Gramin Bank, the examinations should be cancelled and fresh examinations be conducted. The record reveals that after the written test was held on 18.08.2002 the Workers' Association of the Gramin Bank filed a civil suit in which an injunction was granted by the trial Court as a result of which, the result of the written test could not be declared and it was only on 31.05.2004 when the trial Court rejected the application for grant of temporary injunction that the candidates could be called for interview for the post of Officer Scale II and Officer Scale I after declaration of the result of the written test by the Chairman of the Gramin Bank on 02.06.2004 and 07.06.2004 respectively. The names of the appellants did not appear in the said list. The writ petition was filed on 17.09.2004 when the High Court, in view of the report dated 18.07.2004 while granting time to the respondents in the writ petition to file a counter B  
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A affidavit, ordered that the process of selection may go on but no appointments be made. The interviews were subsequently held on 23.09.2004 and 24.09.2004 respectively.

B 7. The stand of the Gramin Bank before the High Court in its counter affidavit was that the written examination was conducted by the Banking Institute, Mumbai after the approval of the Board of Directors of the Gramin Bank; the inquiry conducted by the Committee was *ex parte* since no information was sought for by the members of the Committee from the Gramin Bank and even otherwise, the State Government has C no authority or power to exercise any control over the Gramin Bank since under Section 29 of the Act, the bank is governed by the policies of the Central Government. The Gramin Bank also stated that the alleged report has not pointed out any infirmity in the process of conducting the written examination and D promotions to the key posts had been stalled to the detriment of the interest of the Gramin Bank initially because of the injunction granted by the civil Court which was vacated on 31<sup>st</sup> May, 2004 and thereafter the process was completed. The First Appeal from the order filed against the rejection application was E dismissed by the High Court on 16<sup>th</sup> September, 2004. It was contended that the writ petition would suffer from delay and laches.

F 8. In the High Court, four successful candidates, namely, Ashok Kumar, Rajendra Babu, Satyendra Kumar Srivastava and Ravi Pratap Singh filed impleadment applications which were allowed by the High Court. The newly added respondents filed detailed counter affidavits. The parties have completed their pleadings. Having heard the learned counsel for the parties and having perused the entire record, the High Court has not found G any substance in the writ petition of the appellants and accordingly dismissed the same *inter alia* holding that the Banking Institute, Mumbai, an examining body, was not a party in writ petition; the appellants have failed to prove allegation of mala fide against Sri Zameer Hasan, the then Chairman of the H Gramin Bank; the appellants are estopped from challenging the

examination held on 18<sup>th</sup> August, 2002 as they had participated in the said examination; the appellants are members of Workers' Union who filed the suit in the trial Court and as such the appellants are playing hide and seek with the Court and the inquiry report does not indicate that the examination was vitiated due to influence of Sri Zameer Hasan – respondent No.10. Hence, the appellants have filed this appeal questioning the correctness and validity of the judgment of the High Court.

9. We have heard learned counsel for the parties and examined the entire material on record. Mr. Raju Ramachandran, learned senior Advocate appearing on behalf of Shri Chandra Prakash Singh – appellant No.1, vehemently contended that the High Court gravely erred by holding that the appellants have failed to prove allegations of mala fide or bias against respondent No.10 in the face of the report submitted by the Committee appointed by the State Government which creates some cloud and a real likelihood of bias on the part of respondent No.10, who, at the relevant time, was Chairman of the Gramin Bank having some influence over the Institution helping his brother and cousin in the selection for the posts in question. He submitted that as there existed a doubt, which is required to be cleared, the Gramin Bank being a statutory independent body in all its fairness, ought to have held some independent inquiry to the complaint made by the appellants and others in regard to the selection of the candidates in arbitrary and unfair manner by the Institution, who conducted the examination. In support of his submissions, reliance is placed upon the judgment of this Court in *Jitendra Kumar & Ors. v. State of Haryana & Anr.* [2007 (14) SCALE 125]. We have gone through the judgment in which it has been held that the decision making process should veer round the question in regard to the lack of bona fide or an act of arbitrariness on the part of the State. If lack of bona fide or arbitrariness on the part of the State is proved, whether the right is considered to be a vested or accrued right, or otherwise a negative right, the superior Court may exercise its power of judicial review. The judicial intervention

A would, thus, be possible only when a finding of fact is arrived at  
in regard to the aforementioned acts of omissions and  
commission on the part of the State and not otherwise. In our  
view, there cannot be any quarrel or dispute in regard to the  
above-mentioned proposition of law, but the law has to be  
B applied in the facts and circumstances of each case. In the  
present case, the facts situation is totally different and, therefore,  
this decision is of no assistance to the appellant No.1.

10. Mr. Raj Kumar Gupta, Advocate appearing on behalf  
of the appellant nos. 2 to 8, contended that the appellants have  
C proved on record that the written examination stood vitiated  
because the test was conducted by respondent No.10 in which  
his real brother and cousin also appeared for promotion to the  
post of officer Scale I. In support of this submission, reliance is  
placed upon the report dated 18<sup>th</sup> July, 2004 submitted by a  
D Committee of two officers which was communicated to the  
Gramin Bank by the Secretary, Banking Department, by his letter  
dated 27<sup>th</sup> July, 2004. He also submitted that the bias of  
respondent No.10 is writ large on the face of the record as the  
result of the written test was declared on 01<sup>st</sup> June, 2004 by Sri  
E Zameer Hasan as Chairman of the Gramin Bank in spite of the  
fact that he took transfer on 28<sup>th</sup> May, 2004. He next contended  
that the question papers set by the Banking Institute, Mumbai,  
were kept by respondent No.10 in his custody although as per  
practice the question papers were to be kept in the custody of  
F two officers of the Bank and the answer sheets were also kept  
by him in his custody before dispatching them to the institute for  
evaluation which were dispatched by a private courier and not  
through the postal services. He further contended that one of  
the relatives of respondent No.10, namely, Syed Md. Rizvi, was  
G on medical leave during the period when the written examination  
was conducted, but still he was permitted to appear in the  
examination which would show that the selection of the  
candidates for the promotion to the posts, in question, was  
processed in hot haste manner with mala fide intention and with  
sole object to get Sri Syed Md. Rizvi and Sri Kazim Hussain  
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Rizvi, the real brother and cousin of respondent No.10, selected. A  
According to the learned counsel, the said instances are  
sufficient to create a reasonable apprehension in the mind of  
the appellants that there was likelihood of bias of the respondent  
No.10, who might have influenced the examination body to get  
his near relatives selected in the written test. Thus, the High B  
Court has failed to appreciate the factual situation and legal  
aspect of the matter in proper perspective manner. In support  
of the submissions, reliance is placed on the decisions of this  
Court in *Ashok Kumar Yadav & Ors. v. State of Haryana & Ors.*  
[(1985) 4 SCC 417] and *Krishna Yadav and Anr. v. State of C  
Haryana & Ors.* [(1994) 4 SCC 165].

11. In order to appreciate the contentions of the appellants,  
we have gone through both the said decisions. In *Ashok Kumar  
Yadav's* case (supra), two members of the Haryana PSC did D  
not participate in the interview and had retired from the room  
when the interviews of their respective relatives were held.  
Moreover, neither of them took any part in any discussion in  
regard to the merits of his relatives nor was there anything  
brought on record to show that the marks or credits obtained by E  
their respective relatives at the interview were disclosed to them.  
The Court was, thus, of the view that there was no infirmity  
attaching to the selections made by the Haryana Public Service  
Commission. This Court stated that one of the fundamental  
principles of our jurisprudence is that no man can be a judge in F  
his own cause. The question is not whether the Judge is actually  
biased or in fact decides partially but whether the circumstances  
are such as to create a reasonable apprehension in the mind of  
others that there is a likelihood of bias affecting the decision. If  
there is a reasonable likelihood of bias it is "in accordance with G  
natural justice and common sense that the justice likely to be so  
biased should be incapacitated from sitting". The basic principle  
underlying this rule is that justice must not only be done but must  
also appear to be done. The Court further held that this rule is  
not confined to cases where judicial power *stricto sensu* is  
exercised. It is appropriately extended to all cases where an H

- A independent mind has to be applied to arrive at a fair and just decision between the rival claims of parties. Since the instrumentalities of the State are expected to discharge their functions in a fair and just manner the applicability of this rule is extended to the decision-making process of a selection committee constituted for selecting personnel for service in such instrumentalities. Further, it is held that if a selection committee is constituted for the purpose of selecting candidates on merits and one of the members of the selection committee is closely related to a candidate appearing for the selection, it would not be enough for such member merely to withdraw from participation in the interview of the candidate related to him but he must withdraw altogether from the entire selection process and ask the authorities to nominate another person in his place on the selection committee, because otherwise all the selections made would be vitiated on account of reasonable likelihood of bias affecting the process of selection.

12. In *Krishan Yadav's case* (supra), the selection of Taxation Inspectors by Subordinate Selection Board was set aside being vitiated by fraud and arbitrariness on the basis of accepting the CBI report. In the said case, serious allegations were made against the Selection Board which was referred by Supreme Court of India to CBI for investigation. CBI Report revealing acts of favouritism, selections without interview as also on the basis of fake or ghost interviews, tampering with final records, fabrication of documents, forgery, keeping the selection list a secret, issuing appointment letters after calling selected candidates and obtaining joining reports from them on the spot without any medical test and verification of antecedents and destroying the original records including the answer books. On the basis of these serious allegations against the Selection Board, which are found to be genuine and truthful by the CBI during the investigation, this Court set aside the entire selection being vitiated by fraud, nepotism and arbitrariness.

13. Dr. Dhruv Mehta, Advocate appearing on behalf of respondent Nos. 1 to 6 and respondent No.10 - Sri Zameer

Hasan Ex-Chairman/General Manager, on the other hand, made A  
submissions in support of the judgment of the Division Bench  
of the High Court. He contended that the allegation of bias or  
mala fide alleged by the appellants against respondent No.10  
is vague and irresponsible which is not established by the  
appellants by leading any evidence in support thereof. He B  
contended that the examination for promotion to the post of  
officers Scale I from the Clerk cadre as well as promotion to the  
post of scale II was conducted by the Banking Institute, Mumbai,  
a body duly approved by the Reserve Bank of India and  
promoted by All India Commissioner Banks and not by C  
respondent No.10, the then Chairman of the Gramin Bank and  
the list of successful candidates for interview to the post was  
published by the Chairman vide Order dated 02.06.2004 and  
subsequently the list of successful candidates for interview to  
the post of Officer Scale-I was published by the General Manager  
of the Gramin Bank vide Order dated 07.06.2004. He submitted D  
that the inquiry got conducted by the State Government through  
its agency, was totally against the provisions of the law as the  
Gramin Bank has been established under the Regional Rural  
Banks Act, 1976 which is an instrumentality of the Central  
Government and, therefore, the State Government has no control E  
whatsoever over the Gramin Bank to order an inquiry. He  
contended that no allegation of change of answer sheets or  
manipulation of the marks has been alleged or pleaded by the  
appellants in the writ petition and no supporting evidence except F  
bald assertion of mala fide has been alleged against  
respondent No.10 by the appellants nor any allegation of bias  
or mala fide has been alleged against the Examination  
Committee or the Selection Committee consisting of one  
Director of the Sponsor Bank and one Director of the National  
Bank, who interviewed the selected candidates whose names G  
were sponsored by the Examination Committee.

14. Mr. M.N. Krishnamani, learned senior Advocate  
appearing for respondent No.15, submitted that the appellants  
have not made any allegation regarding the promotion of the

- A selected candidates from Scale I to Scale II, therefore, there is no perversity or illegality in the judgment of the High Court which requires interference by this Court. In nutshell, the learned counsel appearing on behalf of the contesting respondents including some of the selected candidates have contended that the well-
- B reasoned judgment of the High Court does not suffer from any infirmity or perversity warranting interference by this Court. In support of their contentions, the learned counsel has placed reliance upon the decisions of this Court in *State of Punjab v. V.K. Khanna and Ors.* [(2001) 2 SCC 330] and the recent
- C judgment of this Court in *Dhampur Sugar (Kashipur) Ltd. v. State of Uttaranchal and Ors.* [(2007) 8 SCC 418].

15. In *State of Punjab v. V.K. Khanna's* case (supra), this Court held that the concept of fairness in administrative action has been the subject-matter of considerable judicial debate but
- D there is total unanimity on the basic element of the concept to the effect that the same is dependent upon the facts and circumstances of each matter pending scrutiny before the Court and no strait-jacket formula can be evolved therefore. Further it is stated that as a matter of fact, fairness is synonymous with
- E reasonableness and on the issue of ascertainment of meaning of reasonableness, common English parlance referred to as what is in contemplation of an ordinary man of prudence similarly placed – it is the appreciation of this common man's perception in its proper perspective which would prompt the Court to
- F determine the situation as to whether the same is otherwise reasonable or not. Similarly, the existence of mala fide intent or biased attitude cannot be put on a strait-jacket formula but depends upon facts and circumstances of each case. Further, it is said that whereas fairness is synonymous with
- G reasonableness – bias stands included within the attributes and broader purview of the word "malice" which in common acceptance means and implies "spite" or "ill will". Mere general statements will not be sufficient for the purposes of indication of ill will. There must be cogent evidence available on record to
- H come to the conclusion as to whether, in fact, there was a bias

or a mala fide move which resulted in the miscarriage of justice. A  
It is also held that the test of bias is as to whether there is a  
mere apprehension of bias or there is a real danger of bias and  
it is on this score that the surrounding circumstances must and  
ought to be collated and necessary conclusion drawn therefrom.  
In the event, however, the conclusion is otherwise that there B  
exists a real danger of bias, administrative action cannot be  
sustained. If on the other hand allegations pertain to rather fanciful  
apprehension in administrative action, question of declaring  
them to be unsustainable on the basis therefor, would not arise.

16. In *Dhampur Sugar (Kashipur) Ltd. v. State of C  
Uttaranchal and Ors.*'s case (supra), this Court dealing with the  
question of mala fide exercise of power, held as under:

"Allegations of mala fide are serious in nature and they  
essentially raise a question of fact. It is, therefore, D  
necessary for the person making such allegations to supply  
full particulars in the petition. If sufficient averments and  
requisite materials are not on record, the Court would not  
make "fishing" or roving inquiry. Mere assertion, vague  
averment or bald statement is not enough to hold the action E  
to be mala fide. It must be demonstrated by facts.  
Moreover, the burden of proving mala fide is on the person  
leveling such allegations and the burden is "very heavy". In  
the present case, except alleging that the policy was altered  
by the Government to extend the benefit to IGL, no material F  
whatsoever was placed on record by the appellant. It is,  
therefore, not possible to hold that the impugned action  
was mala fide or malicious."

17. In the light of the above-said settled law, we have  
examined the facts and circumstances of the case in hand. In G  
the present case, it is not in dispute that the Board of Directors  
of the Gramin Bank in its meeting held on 20<sup>th</sup> September, 2001  
approved the holding of the written examination of promotion  
by the Banking Institute, Mumbai for 47 posts of Scale II officers  
and 16 posts of Scale I officers. A Circular to that effect was H

A issued on 09<sup>th</sup> July, 2002 fixing 18<sup>th</sup> August 2002 as a date on which the written test was scheduled to be held. The appellants appeared at the written test but they could not qualify the test. Sri Zameer Hasan – respondent No.10, at the relevant time, was the Chairman of the Gramin Bank whereas respondent nos. B 2, 3 & 5 to 9 were the Directors of the Gramin Bank. Sri J.K. Lahri – respondent no. 4 was the Director of the Gramin Bank as nominee of the State Bank of India and Sri D.P. Sanda – respondent No.11 was Director of Banking Institute, Mumbai. C The merit list of the successful candidates was prepared by the Banking Institute, Mumbai which was sent to the Gramin Bank. D The list containing the names of the selected candidates was placed on the Notice Board by respondent No.10 being Chairman of the Bank on 01<sup>st</sup> June 2004. In between the holding of the written test on 18<sup>th</sup> August, 2002 and placing the selected list of the successful candidates on the notice board on 01<sup>st</sup> E June, 2004, there was an interim injunction order operating against the Gramin Bank not to declare the result passed by the Civil Court in suit filed by the Workers' Association of the Gramin Bank which was subsequently vacated on 31<sup>st</sup> May, 2004 permitting the Gramin Bank to hold the interview for the F post of officer Scale II and Officer Scale I after declaration of the result of the written test. Respondent No. 10 was transferred on 28<sup>th</sup> May, 2004 as General Manager of the Gramin Bank, Deorai, but he has not relinquished the charge till the date of declaring the result of the written test. It is also established on record that on 07<sup>th</sup> June, 2004, the successor Chairman of G respondent No.10 placed the same merit list of the successful candidates on the Notice Board for the inspection of the candidates. The names of the appellants herein did not appear in the said select list. The personal interviews of the successful candidates were held on 23<sup>rd</sup> September, 2004 and 24<sup>th</sup> H September, 2004. The inquiry ordered to be conducted by the State Government in regard to the mismanagement and other irregularities etc. of the Gramin Bank, was *ex parte* without giving any intimation to the Board of Directors of the Gramin Bank. H The State Government *ex facie* does not exercise any control

over the Gramin Bank since under Section 29 of the Act, the Gramin Bank is governed by the policies of the Central Government. The High Court in its judgment has observed that the report submitted by the members of the committee appointed by the State Government did not point out any infirmity in the conduct of the written examination. The appellants have not made the Banking Institute, Mumbai, who conducted the examination, as party in writ petition nor any allegation of mala fide or mal- practice has been alleged against the institution. The appellants have also not made Sri Syed Md. Rizvi, brother, and Sri Kazim Hussain Rizvi, cousin, respectively of the respondent No.10 as parties in the writ petition who, admittedly, were the successful candidates in the written test for the posts in question. The written test was not conducted by respondent no.10 nor was he heading the selection committee. All that has been alleged in paragraphs 11 and 14 of the writ petition by the appellants reads as under:-

"11. That the written-test was held on 18.8.2002 which was conducted by opposite party no.10, who was officiating Chairman of the Bank at that time.

14. That it was specifically mentioned in the above mentioned complaints that the opposite party No.10, was making grounds for promoting his real brother and his cousin namely Syed Md. Rizvi and Kazim Hussain Rizvi, who are already employed in the Bank as Clerk cum Cashier and he wants their promotion to Officer Scale I."

The above-extracted allegations are absolutely vague, indefinite and did not contain sufficient material as required under law in support thereof. The appellants have not established on record that respondent No.10-Sri Zameer Hasan, the then Chairman, was an instrument in getting his brother and cousin through in the written examination and later on it was under his influence that the Selection Committee had selected his two relatives for the posts in question. In addition to the decisions referred to above, this Court in *Tara Chand Khatri vs. Municipal*

A *Corporation of Delhi & Ors.* [AIR 1977 SC 567]; *E.P. Royappa v. State of Tamil Nadu & Anr.* [AIR 1874 SC 555] and *M/s. Sukhwinder Pal Bipan Kumar & Ors. v. State of Punjab & Ors.* [AIR 1982 SC 65] held that the burden of establishing mala fide is very heavy on the person who alleges it. The Court, would, therefore, be slow to draw dubious inferences from incomplete facts placed before it by a party, particularly when the imputations are grave and they are made against the holder of an office which has a high responsibility in administration. Such is the judicial perspective in evaluating charges of unworthy conduct against ministers and other, not because of any special status.....but because otherwise, functioning effectively would become difficult in a democracy.

18. In *M. Sankaranarayanan, IAS v. State of Karnataka & Ors.* [AIR 1993 SC 763], this Court observed that the Court may “draw a reasonable inference of mala fide from the facts pleaded and established. But such inference must be based on factual matrix and such factual matrix cannot remain the realm of institution, surmise or conjecture.” In *N.K. Singh v. Union of India and Ors.* [(1994) 6 SCC 98], this Court held that the inference of mala fides be drawn by reading in between the lines and taking into account the attendant circumstances.

19. Thus, as a proposition of law, the burden of proving mala fide is very heavy on the person who alleges it. Mere allegation is not enough. Party making such allegations is under the legal obligation to place specific materials before the Court to substantiate the said allegations. There has to be very strong and convincing evidence to establish the allegations of mala fides specifically and definitely alleged in the petition as the same cannot merely be presumed. The presumption under law is in favour of the bona fides of the order unless contradicted by acceptable material. In the present case, no specific and definite real danger of bias has been made against respondent no.10 to indicate how he was in a position to influence or manipulate the result of the written test conducted by the Banking Institute, Mumbai. There are no specific pleadings nor any proof thereof

in the writ petition filed by the appellants. In such circumstances, the Court is under no obligation to entertain the pleas of mala fide or arbitrariness. In the backdrop of the facts and circumstances of the present case and in the light of the settled law, we agree with the reasoning recorded by the High Court that there are no proper pleadings nor there is any other evidence brought on record by the appellants to substantiate the sweeping, bald and unfounded allegation of mala fide alleged against respondent No.10 - Sri Zameer Hasan.

20. The two member committee appointed by the State Government in its report made certain observations that Sri. Zameer Hasan – respondent No.10 had declared the result of the written test on 01<sup>st</sup> June, 2004, despite the fact that he stood transferred on 28<sup>th</sup> May, 2004, the answer-sheets should not have been sent to the Banking Institute, Mumbai, by courier service and the answer-sheets and the question papers were not kept in the joint custody, but the respondent No.10 had kept them in his own custody and that one candidate had appeared at the examination even though he was on leave are not substantiated by any evidence. It is a fact that respondent no.10 has not filed any independent counter to the writ petition, but the respondent - Gramin Bank in its counter has answered and explained each and every paragraph of the writ petition. It was the case of the respondent – Gramin Bank before the High Court that Sri Zameer Hasan – respondent No.10 was relieved from the post on 01<sup>st</sup> June, 2004 and the list of the successful candidates submitted by the Banking Institute, Mumbai, to the Gramin Bank, was placed on the Notice Board on 02<sup>nd</sup> June, 2004 by respondent No.10 which was again circulated by the successor Chairman on 07<sup>th</sup> June, 2004. The candidate, who was on medical leave, in fact had appeared in the written examination during his leave period. The mere assertion of the appellants that one selected candidate could not have appeared in the written test, because during the relevant time he was on leave, in the absence of any supporting evidence cannot be accepted. Further, no infirmity or illegality appears to have been

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A committed by the then Chairman, Gramin Bank, by sending the  
answer books to the Banking Institute, Mumbai, by courier  
service. The Gramin Bank has categorically stated that the  
question papers and answer-sheets were kept in the joint custody  
of the Chairman and one Director of the Bank. The report  
B submitted by the State Committees also did not indicate in any  
manner whatsoever that there was some fault with the written  
examination. There is no averment whatsoever in the report  
which may indicate that the list of the successful candidates  
was not in accordance with the merits of the candidates  
C prepared by the examining body. We are, however, satisfied on  
the material placed before us that the appellants have been given  
fair treatment in the written test held by the Institute but as they  
had failed to qualify the test, they, on any legitimate ground,  
cannot be permitted to allege wholly unfounded, irresponsible  
and uncalled for allegations of favoritism or mala fide against  
D respondent No.10. For the lack of specific and definite  
allegations of mala fide in the writ petition supported by the  
evidence in proof of such facts of mala fides, the writ petition of  
the appellants has been rightly rejected by the High Court. We  
E find no fault or infirmity or perversity in the reasoning of the High  
Court warranting interference in this appeal.

21. For the above said reasons, there is no merit in this  
appeal and it is, accordingly, dismissed. In the facts and  
circumstances of the case, the parties are left to bear their own  
F costs.

D.G.

Appeal dismissed.