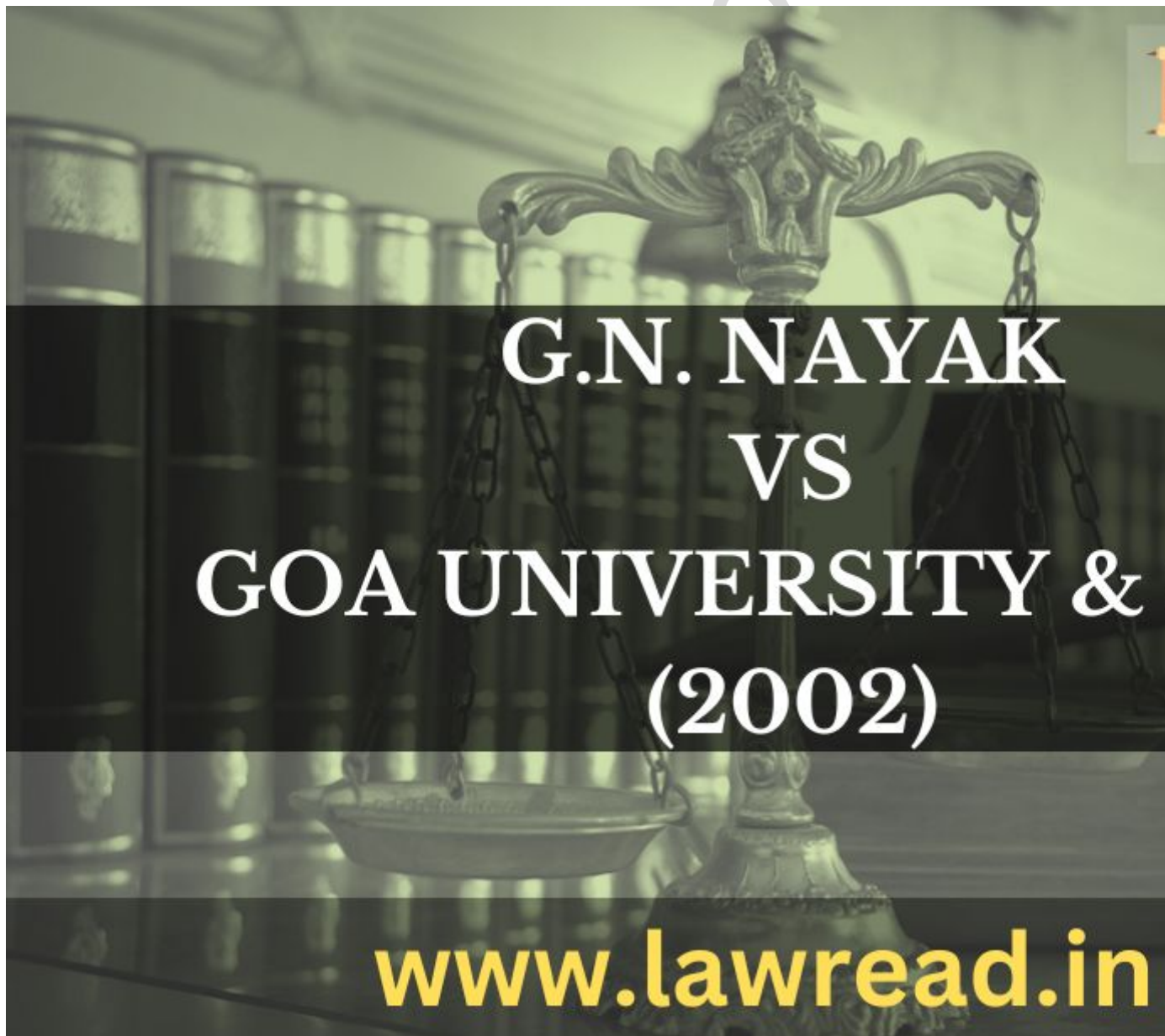


# Landmark Judgement

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**G.N. Nayak v. Goa University & Ors, (2002) | Rule against Bias: A Case Analysis**



This administrative law case mainly addresses the problem of bias in a university professorial selection procedure.

**G.N. Nayak v. Goa University & Ors. is the case title.**

**Case Title:** G.N. Nayak v. Goa University & Ors.

**Court:** Supreme Court

**Citation:** AIR 2002 SC 790; (2002) 2 SCC 712

**Judges:** Justice S. Rajendra Babu & Justice Ruma Pal

**Date of Judgment:** January 29th, 2002

## Facts

The position of Professor of Marine Science at the University of Goa became vacant in 1991. Despite numerous ads, no qualified applicant was located.

Another job posting with particular minimal requirements was sent out on August 10, 1994. Respondent No. 5 and the appellant both submitted applications.

The appellant received an offer for a professorship elsewhere, so the Head of Department (henceforth referred to as "HoD") sent a memorandum to the Vice Chancellor asking for urgent interviews. The appellant's attributes were commended in the note.

After receiving this note, Respondent No. 5 wrote letters claiming that he was the target of bias in the September 1995 elections. The Vice-Chancellor remained silent.

Due to suspected bias, Respondent No. 5 filed a writ petition to have the HoD removed from the selection committee. On September 12, 1995, this was withdrawn.

On September 13, 1995, interviews were conducted, however neither applicant was deemed qualified.

A new job posting with updated additional requirements was released in October 1995. The HoD was part of a new selection committee.

The selection committee recommended the appellant's nomination on May 20, 1996. The Executive Council gave its approval.

Respondent No. 5 filed a second writ petition contesting this choice on the grounds of bias, unlawful qualifying amendment, the selection committee's flawed constitution, and the appellant's lack of qualifications.

The High Court granted respondent No. 5's writ petition. The appellant contested this ruling at the highest court.

## Problems

Since respondent number five withdrew the previous writ petition without having the opportunity to file a new one, is it possible for him to re-agitate the same issues?

Whether the 1995 advertisement's modified requirements were unlawfully mandated without statutory bodies' consent.

Whether the appellant fulfilled the prerequisite of ten years of research or teaching experience.

Whether the Selection Committee was established in accordance with University Statute 15.

Whether the HoD was biased toward respondent number five by praising the appellant in his note.

Is it against any rules to neglect to document the candidates' grading and assessment process?

## Applied Laws

India's 1950 Constitution

**Indian Forest Service (Initial Recruitment) Regulations, 1966 Goa University Act, 1984**

### Court Arguments

In its preliminary objection, the appellant argued that the respondent's second writ petition was unmaintainable because respondent no. 5 had withdrawn their first writ petition on

the identical cause of action without being given the opportunity to file again.

Since he took part in the selection process without objecting, the respondent was unable to contest the modification to the qualifying requirements.

The appellant additionally contended that the Selection Committee was legitimately formed with subject matter experts from the panel who had been approved by the University organizations and that the unanimous selection decision would not be invalidated by bias based only on the appellant's characteristics.

Furthermore, the Selection Committee determined that the appellant was competent based on his pre-doctoral research experience.

The defendant claimed that in contravention of the University Statutes, the qualifying requirements for the position were unlawfully changed. According to Statute 15, the Selection Committee was not duly constituted.

Furthermore, the evaluation and grading procedure utilized to compare candidates was not documented. The HoD's earlier note applauding the appellant demonstrated a blatant bias toward the respondent.

Furthermore, according to the published qualifications, the appellant did not have the necessary ten years of teaching or research experience to be qualified for the position.

## Evaluation

In its ruling, **the Supreme Court first addressed the appellant's preliminary challenge to the maintainability of respondent no. 5's second writ petition.** Because the subject matter of the second petition differed from that of the earlier withdrawn petition, the Court determined that the second petition could be maintained. While the second writ suit contested the selection based on the 1995 advertisement, the first writ case addressed the selection procedure under the 1994 advertisement.

Moving on to the merits of the case, **the Court looked at the purportedly unlawful modification to the requirements for the Professor position.** The Court noted that although the University Statutes required the Executive Council to specify the requirements after taking the Academic Council's recommendations into account, respondent no. 5 was unable to bring up this point because he applied and took part in the selection process without objecting, even though he was aware of the modifications to the eligibility requirements.

The appellant's credentials and whether he had the necessary ten years of teaching or research experience were then examined by the court. **The Court examined the 1995 advertisement and concluded that,** although a rigorous reading of the qualifying requirements would indicate that the appellant was short by around four months, it would not be appropriate to take a legalistic stance without taking the University's objective into

account.

**In Kumar Bar Das (Dr.) v. Utkal University, (1999) 1 SCC 453, the Court upheld** its earlier ruling that pre-doctoral research experience could be used to the experience requirement. As a result, the Court determined that the appellant qualified for the position.

The Registrar's affidavit, which claimed that the panel of topic experts had been developed by the Academic Council and approved by the Executive Council, and the provisions of the University's Statute 15 were examined by the Court in relation to the Selection Committee's constitution.

The Court noted that there was no proof that the experts had been paired by the Executive Council based on their areas of expertise. The Court determined that the Selection Committee's constitution did not **violate the University's Statute 15**.

Based on respondent no. 2's note complimenting the appellant, the Court then examined the accusation of bias against the HoD. The court stated that "any person or authority required to act in a judicial or quasi-judicial matter must act impartially" while defining bias as "partiality" or "preference." The Court stated that bias must not be based on reason but rather be "actuated by self-interest." Preferences of any kind do not invalidate an action. To prove this, the court cited *A.K. Kraipak v. Union of India*, (1969) 2 SCC 262.

Although the HoD had expressed gratitude for the appellant's skills, the Court recognized that it was normal for him to have an opinion regarding the proficiency of the readers under his supervision. The Court stressed that respondent no. 5 had not claimed that the appellant was chosen by the HoD for any unrelated grounds or that the praise was unfair.

The Court further noted that a reevaluation by a new Selection Committee at a later date was not precluded by the appellant's unsuitability in the prior selection procedure.

Finally, the Court looked at the matter of the Selection Committee's failure to document the candidates' evaluation or grading. The Court noted that no ordinance requiring a specific method of evaluating the candidates' merits had been brought to its attention. According to the Court, marking may not be required for nominations to positions as high as professor. The Court upheld the Selection Committee's conclusion since it was unanimous.

The Supreme Court granted the appeal and overturned the High Court's ruling.

The Court determined that the second writ petition was maintainable, respondent no. 5 could not contest the amendment to the eligibility criteria, the appellant met the requirements, the

Selection Committee was duly constituted, the accusation of bias was baseless, and the lack of grading records did not invalidate the selection process.

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