

HIGH COURT OF TRIPURA
AGARTALA

WP(C) 454 OF 2024

1.Sri Joydeep Chakraborty (28 years),

S/o- Sri Dulal Chakraborty, resident of Ramnagar, Road no-7,P.O- Ramnagar,
P.S- Ramnagar, Dist- West Tripura, Pin- 799002.

2.Sri Litan Das (28 years),

S/o- Sri Sudhir Chandra Das, Resident of Village- Laxmandhepa,
P.O- Laxmandhepa, Dist- Sepahijala Tripura, Pin- 799115.

3.Smt. Reshmi Chakraborty (27 years),

D/o- Sri Dulal Chakraborty, Resident of- Ashram Chowmuhan,
P.O- Agartala College, Dist- West Tripura, Pin- 799004.

4.Sri Ashish Kumar Ram (32 years),

S/o- Anil Ram, resident of Graam-Sono, P.O. Sono, Dist- Jamui,
Bihar, Pin- 811314.

5.Smt. Prativa Debnath (26 years),

D/o- Sri Prasanta Debnath, Resident of Ranir Bazar Nalgaria (Krishnatali),
P.O- Ranir Bazar, P.S- Ranir Bazar, Dist- West Tripura, Pin- 799035.

...Petitioners

Versus

1.The Union of India, represented by its Commissioner cum Secretary,
Government of India, Ministry of Education (Earlier Human Resource
Development), Department of Higher Education having its office at Shastri
Bhawan, New Delhi.

2.The Commission cum Secretary,

Government of India, Ministry of Education (Earlier Human Resource
Development), Department of Higher Education, having its office at Shastri
Bhawan, New Delhi.

3.The National Institute of Technology,

Agartala, Barjala, Jirania, P.O- Jirania, Agartala, District- West Tripura,
Pin- 799046.

4.The Registrar,

National Institute of Technology, Agartala, Barjala, Jirania, P.O- Jirania,
Agartala, District- West Tripura, Pin- 799046.

5.The Director,

National Institute of Technology, Agartala, Barjala, Jirania, P.O- Jirania,
Agartala, District- West Tripura, Pin- 799046.

...Respondents

WP(C) 489 OF 2024

Kanti Das, S/o Sri Krishna Pada Das, R/o-Village East Kalabaria
& P.O. Maichara, P.S. Belonia & District-South Tripura, PIN-799155.

...Petitioner

Versus

1.National Institute of Technology (NIT), Agartala, represented by its
Director, Barjala, Jirania, District-West Tripura, Pin-799046.

2.The Director, National Institute of Technology (NIT), Agartala, Barjala,
Jirania, District-West Tripura, Pin-799046.

3.The Registrar, National Institute of Technology (NIT), Agartala, Barjala,
Jirania, District-West Tripura, Pin-799046.

4.The Chairman, Recruitment Committee of Group-B & Group-C, NIT,
Agartala.

...Respondents.

In WP(C) No.454/2024

For the petitioners : Ms. S. Deb(Gupta), Advocate.

For the respondents : Mr. Somik Deb, Sr. Advocate.
Mr. B. Majumder, DySGI,
Mr. P. Debbarma, Advocate.

In WP(C) No.489/2024

For the petitioners : Mr. P. Roy Barman, Sr. Advocate.
Mr. S. Bhattacharjee, Advocate.

For the respondents. : Mr. Somik Deb, Sr. Advocate.
Mr. B. Majumder, DySGI,
Mr. P. Debbarma, Advocate.

Date of hearing &date
of delivery of : **22.01.2025**
judgment & Order

Whether fit for : YES
reporting

HON'BLE MR.JUSTICE ARINDAM LODH

Judgment & Order(Oral)

By means of filing the above two writ petitions, the petitioners
have challenged the notification dated 03.06.2024 [**Annexure-18** to WP(C)

No.454/2024 and **Annexure-14** to WP(C) No. 489/2024] i.e. the cancellation of the entire selection process initiated by the National Institute of Technology [for short, NIT], Agartala, vide recruitment notifications dated 02.11.2019 and 15.09.2021 [**Annexure-3 & Annexure-6** to WP(C) No.454/2024].

2. Short facts emanated are that on 04.04.2019, the respondent no.1 issued a letter to all the Directors of NITs, including the Director of NIT, Agartala i.e. respondent no.5 in WP(C) No.454/204 and respondent no.2 in WP(C) No.489/2024 for implementation of the recruitment rules for non-teaching staffs of the NITs based on the recommendation of Oversight Committee. On 26.06.2019, the Board of Governors, NIT, Agartala in its 47th meeting adopted the said letter dated 04.04.2019, issued by the respondent no.1. The NIT, Agartala invited applications from the bonafide citizens of India for recruitment to various non-teaching posts by issuing Recruitment Notice/Advertisement vide No.F.NITA.2(519-Estt)/2019/7717 dated 02.11.2019.

2.1 Thereafter, on 11.12.2019 the competent authority of Union of India, i.e. the respondent No. 1 issued a letter vide No. F.No.35-4/2016-TS.III to the Registrars of all NITs for discontinuation of interviews at Junior Level Posts as per instructions issued by DoPT, Government of India. In the said communication, the respondent No. 1 brought some changes in the selection procedure and on 21.01.2020 the Board of Governors in its 50th meeting of NIT, Agartala adopted the guidelines, in accordance with instructions issued by DoPT vide its Office Memorandum No. 39029/01/2013-Estt(B)-Part dated 29.12.2015, on the basis of 11.12.2019 supra.

On 15.09.2021, the respondents no. 3 to 5 in WP(C) No. 454 of 2024 invited applications from the bonafide citizens of India for recruitment to

various non-teaching posts vide Notice No. F.NITA.2(519-Estt)/2019 vol-II 3335, dated 15.09.2021 in continuation of the Advertisement dated 02.11.2019.

2.2 In WP(C) No. 454/2024, the petitioner No. 1 applied for the post of Junior Engineer (Civil Engineering/Electrical Engineering); the petitioner nos. 2 & 3 applied for Office Attendant/Lab Attendant (Group-C) and the petitioner nos. 4 & 5 applied for the post of Technician (Group-C). In WP(C) No.489 of 2024, the sole petitioner applied for the post of Technician.

2.3 Thereafter, the respondent no. 5 issued admit cards in favour of the respective petitioners. The petitioners participated in written test on 10.07.2022, 05.06.2022 & 14.08.2022. The respondent-Registrar of NIT, Agartala issued notifications for publishing the answer keys for questions for the posts of Technicians/Senior Technicians/Junior Engineer, etc. and Office/Lab Attendant on 16.08.2022, 12.07.2022 and 07.06.2022 respectively. On 13.12.2022 the respondent No. 4 issued a notification publishing the list of short listed candidates for Interview-cum-Interaction after the written test.

2.4 However, the respondent-Registrar, NIT, Agartala vide notification dated 03.06.2024 had cancelled the said recruitment process initiated under the Advertisement No. NITA.2(519-Estt)/2019/7717, dated 02.11.2019 and No. NITA.2(519-Estt)/2019/Vol-II/3335, dated 15.09.2021 due to administrative reasons.

3. Feeling aggrieved of such cancellation of entire selection process, the petitioners of the above writ petitions have challenged the same, since according to them, it is illegal, arbitrary, discriminatory and violative of Article 14 of the Constitution of India.

4. I have heard Ms. S. Deb (Gupta), learned counsel appearing on behalf of the petitioners in WP(C) 454 of 2024 and Mr. P. Roy Barman, learned senior counsel assisted by Mr. S. Bhattacharjee, learned counsel appearing for the petitioner in WP(C) 489 of 2024. Also heard Mr. Somik Deb, learned senior counsel assisted by Mr. P. Debbarma, learned counsel appearing for the respondents-NIT, Agartala and Mr. B. Majumder, learned DySGI appearing for the respondents-Union of India.

5. Ms. Deb(Gupta), learned counsel appearing for the petitioners submits that the selection process was completed in compliance with the instructions issued by DoPT under OM dated 11.12.2019 whereby and whereunder it was instructed to all NITs to discontinue the process of taking interview at various Junior Level Posts in NITs. It is asserted that at the time of issuance of employment notification for filling up of various posts of non-teaching staffs there was no mention that interview would be one of the part of selection process. Ms. Deb (Gupta), learned counsel submits that following the DoPT instructions as aforestated, the NIT, Agartala had announced a '*Scheme of Examination*' for the post of Technician (Group-C, PB-I, GP-Rs.2000/-) and for the post of Office Attendant/Lab Attendant (Group-C,PB-I, GP-Rs.1800/-) . Examination pattern was also mentioned in the said '*Scheme of Examination*'. Detailed syllabus for the purpose of examination also had been declared by the competent authority of the NITs. Under the said '*Scheme of Examination*', according to learned counsel, no provision for taking interview was made. In due course of time admit cards were issued in favour of all participating candidates.

6. The candidates appeared in the written examination having full knowledge of the syllabus *qua* the '*Scheme of Examination*'. Thereafter, the

competent authority of NIT, Agartala declared the list of short listed candidates for the purpose of Interview-cum-Interaction after the written test and computer proficiency consisting of typing test for recruitment of Group-B and Group-C in the various non-teaching positions.

7. Learned counsel appearing for the petitioners have submitted that while the petitioners along with other candidates were preparing to appear before the Interview-cum-Interaction Committee, NIT, Agartala issued a notice dated 15.12.2022, [**Annexure-R/3** to the rejoinder affidavit in WP(C) 454/2024] cancelling the process of Interview-cum-Interaction scheduled from 16.12.2022 to 20.12.2022. The said notice also reflected that further course of actions will be intimated in due course of time.

8. Thereafter, the competent authority of NIT, Agartala vide notification dated 3rd June, 2024 had cancelled the entire selection process on the ground of administrative exigencies.

9. Ms. Deb(Gupta), learned counsel along with Mr. P. Roy Barman, learned senior counsel have submitted that having understood their actions which were contrary to the instructions of DoPT discontinuing the process of taking interview, they arbitrarily cancelled the process of conducting interview. The advertised posts were intended to be filled up based solely on written examination, as per the DoPT's instructions to dispense with interview criterion. It is further submitted that candidates appearing in examination have no indefeasible/absolute right to claim appointments but at the same time duty casts upon the employer to act in a fair manner before cancelling the entire selection process. It is further submitted that the respondents-NIT failed to provide any valid or compelling reason for cancelling the entire selection process. There is no allegation of irregularities or malpractices in conducting

the written examination and publication of results of the said examination. In this circumstance, the cancellation of the entire selection process according to this Court, is illegal, arbitrary and violative of the provisions enshrined under Article 14 of the Constitution.

10. According to learned counsel appearing for the petitioners, since written examination was conducted in a fair manner and in compliance with DoPT instructions, the NIT, Agartala ought not to have cancelled the entire selection process in absence of any allegations of irregularities or malpractices.

11. On the other hand, opposing the submissions of learned counsel appearing for the petitioners, Mr. Somik Deb, learned senior counsel appearing on behalf of the respondents-NIT has submitted that since the process of interview had been cancelled, the competent authority did not commit any illegalities to cancel the entire process. According to Mr. Deb, learned senior counsel, the provision of taking interview was specifically made in NIT statute. So, the competent authority of NIT, Agartala following that statutory provision had decided to conduct interview of the short listed candidates who became successful in written examination. According to Mr. Deb, learned senior counsel, on the date of Advertisement, NIT, Agartala did not adopt the DoPT instructions discontinuing the process of taking interview for selection as it was adopted later on. According to learned senior counsel, the competent authority of NIT having noticed of this aspect and to streamline the entire selection process, had cancelled the entire selection process and there is no illegality or arbitrariness in such cancellation.

12. Mr. Deb, learned senior counsel has strenuously argued that mere participation in a selection process does not create any vested right upon the

candidates for appointment. Furthermore, Mr. Deb, learned senior counsel has drawn my attention to Clause 3 of the Advertisement dated 11.02.2019 [**Annexure-3** to WP(C) No. 454/2024] relating to general instructions and recruitment system/rules which stipulates that- “*the institute reserves the right to modify/defer or cancel the advertisement/recruitment at any stage of processing without assigning any reasons*”. So, applying this clause NIT, Agartala was competent to cancel the entire selection process without assigning any reason.

13. To support the submission of learned senior counsel that the candidates have no indefeasible right to claim appointments, Mr. Deb, learned senior counsel has placed reliance upon the following decisions of Hon’ble Supreme Court:

- i. (1991) 3 SCC 47 [**Shankarsan Dash Vs. Union of India**];
- ii. (2006) 1 SCC 779 paras 3 to 9, 15 to 19 [**Union of India & Ors. Vs. Kali Dass Batish & Anr.**];
- iii. (2018) 16 SCC 195 paras 2, 26 to 32 [**LT.CDR.M. Ramesh Vs. Union of India & Ors.**];
- iv. (2019) 12 SCC 798, paras 6,7,8 and 12 [**Dinesh Kumar Kashyap & Ors. Vs. South East Central Railway & Ors.**];
- v. (2019) 3 SCC 331, paras 1 to 5, 8, 10 to 13 [**State of Manipur & Anr. Vs. Takhelmayum Khelendro Meitei & Ors.**] and
- vi. (2020) 2 SCC 582, paras 13 and 14 [**Mohd. Rashid Vrs. Director, Local Bodies, New Secretariat & Ors.**].

14. To support his submission that no reason is required to be assigned, learned senior counsel appearing for the respondents-NIT has relied upon the decision of Hon’ble Supreme Court in **Liberty Oil Mills & Ors. Vs. Union of India & Ors.** reported in (1984) 3 SCC, 465, para 22.

15. At this juncture, Ms. Deb (Gupta), learned counsel appearing for the petitioners has submitted that she relies upon the decisions of the Hon’ble

Supreme Court in ***Union of India Vs. Uzair Imran & Ors.***, reported in **2023 SCC OnLine SC 1308** and ***Dinesh Kumar Kashyap & Ors. Vs. South East Central Railway & Ors., Para 6***, reported in **(2019) 12 SCC 798** to justify that though candidates appearing in a selection process have no indefeasible right to claim appointment, they have limited to be treated fairly without any sorts of discrimination.

16. Learned counsel appearing for the petitioners have submitted that mere mentioning a clause in the Advertisement that at any point of time, the employer may modify or cancel the selection process without assigning any reason will not provide any unfettered power upon the employer to act at their whims. To support her submissions, the learned counsel for the petitioners have relied upon the decisions of the Hon'ble Supreme Court in ***Tata Cellular Vs. Union of India***, reported in **(1994) 6 SCC 65 [SCC.pp.687,688 paras 93,94,96 and 108]**. and ***Jitendra Kumar & Ors. Vs. State of Haryana & Anr.***, reported in **(2008) 2 SCC 161**.

17. I have considered the submissions of learned counsel appearing for the parties and have perused the documents annexed to the writ petitions and, counter affidavits filed by the contesting parties. Before I delve into the merits of the questions raised here-in-above by learned counsel appearing for the parties, in my opinion, it is necessary to examine (i) whether the selectees have any indefeasible right of appointment and (ii) whether the government or the employer can cancel the process of selection without assigning any justifiable reasons.

18. To begin with, let me discuss the legal principles on the above issues.

19. In the case of *Jitendra Kumar* (*supra*), Hon'ble Supreme Court had discussed quite elaborately as regards the legal principles on the above points [**SCC.pp. 179,180, paras 42,43,44,45 and 46**], which reads thus:

“42. The legal principle obtaining herein is not in dispute that the selectees do not have any legal right of appointment subject, inter alia, to bona fide action on the part of the State. We may notice some of the precedents operating in the field.

43. In Shankarsan Dash v. Union of India [(1991) 3 SCC 47 : 1991 SCC (L&S) 800 : (1991) 17 ATC 95] this Court held: (SCC pp. 50-51, para 7)

“7. It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted. This correct position has been consistently followed by this Court, and we do not find any discordant note in the decisions in State of Haryana v. Subash Chander Marwaha [(1974) 3 SCC 220 : 1973 SCC (L&S) 488] , Neelima Shangla v. State of Haryana [(1986) 4 SCC 268 : 1986 SCC (L&S) 759] or Jatinder Kumar v. State of Punjab [(1985) 1 SCC 122 : 1985 SCC (L&S) 174] .”

(emphasis supplied)

44. Yet again in R.S. Mittal v. Union of India [1995 Supp (2) SCC 230 : 1995 SCC (L&S) 787 : (1995) 30 ATC 53] this Court held: (SCC p. 234, para 10)

“10. ... It is no doubt correct that a person on the select panel has no vested right to be appointed to the post for which he has been selected. He has a right to be considered for appointment. But at the same time, the appointing authority cannot ignore the select panel or decline to make the appointment on its whims. When a person has been selected by the Selection Board and there is a vacancy which can be offered to him, keeping in view his merit position, then, ordinarily, there is no justification to ignore him for appointment. There has to be a justifiable reason to decline to appoint a person who is on the select panel.”

(emphasis supplied)

45. In Asha Kaul v. State of J&K [(1993) 2 SCC 573 : 1993 SCC (L&S) 637 : (1993) 24 ATC 576] this Court held: (SCC pp. 580-81, para 8)

“8. It is true that mere inclusion in the select list does not confer upon the candidates included therein an indefeasible right to appointment (State of Haryana v. Subash Chander Marwaha [(1974) 3 SCC 220 : 1973 SCC (L&S) 488] ; Mani Subrat Jain v. State of Haryana [(1977) 1 SCC 486 : 1977 SCC (L&S) 166] ; State of Kerala v. A. Lakshmikutty [(1986) 4 SCC 632 : (1986) 1 ATC 735]) but that is only one aspect of the matter. The other aspect is the obligation of the Government to act fairly. The whole exercise cannot be reduced to a farce. Having sent a requisition/request to the Commission to select a particular number of candidates for a particular category,—in pursuance of which the Commission issues a notification,

holds a written test, conducts interviews, prepares a select list and then communicates to the Government—the Government cannot quietly and without good and valid reasons nullify the whole exercise and tell the candidates when they complain that they have no legal right to appointment. We do not think that any Government can adopt such a stand with any justification today.”

(See also *A.P. Aggarwal v. Govt. of NCT of Delhi* [(2000) 1 SCC 600 : 2000 SCC (L&S) 206] .)

46. In *Food Corpn. of India v. Bhanu Lodh* [(2005) 3 SCC 618 : 2005 SCC (L&S) 433] this Court held: (SCC p. 629, para 14)

“14. Merely because vacancies are notified, the State is not obliged to fill up all the vacancies unless there is some provision to the contrary in the applicable rules. However, there is no doubt that the decision not to fill up the vacancies, has to be taken bona fide and must pass the test of reasonableness so as not to fail on the touchstone of Article 14 of the Constitution. Again, if the vacancies are proposed to be filled, then the State is obliged to fill them in accordance with merit from the list of the selected candidates. Whether to fill up or not to fill up a post, is a policy decision, and unless it is infected with the vice of arbitrariness, there is no scope for interference in judicial review.”

20. In the case of **Uzair Imran** (supra), the Hon’ble Supreme Court again reiterated the principle at para 15 in the following manner as under:

“15. Notwithstanding this settled legal position, the stage when ineligibility is cited for not offering employment also assumes importance. It is indeed indisputable that none has any legal right to claim public employment. In terms of Article 16 of the Constitution, a candidate has only a right to be considered therefor. Once a candidate is declared ineligible to participate in the selection process at the threshold and if he still wishes to participate in the process perceiving that his candidature has been arbitrarily rejected, it is for him to work out his remedy in accordance with law. However, if the candidature is not rejected at the threshold and the candidate is allowed to participate in the selection process and ultimately his name figures in the merit list - though such candidate has no indefeasible right to claim appointment - he does have a limited right of being accorded fair and non-discriminatory treatment. Given the stages of the process that the candidate has successfully crossed, he may not have a vested right of appointment but a reasonable expectation of being appointed having regard to his position in the merit list could arise. The employer, if it is a State within the meaning of Article 12 of the Constitution, would have no authority to act in an arbitrary manner and throw the candidate out from the range of appointment, as distinguished from the zone of consideration, without rhyme or reason. The employer-State being bound by Article 14 of the Constitution, the law places an obligation, nay duty, on such an employer to provide some justification by way of reason. If plausible justification is provided, the courts would be loath to question the justification but the justification must be such that it is rational and justifiable, and not whimsical or capricious, warranting non-interference.”

21. Applying the aforesaid legal principles to the facts of the instant cases, I am of the opinion that the petitioners or other selectees have no indefeasible/absolute right for appointment to the posts they applied for,

however, the NIT, Agartala must have an obligation to show a rational and justifiable reasons before cancelling the entire selection process. It is revealed in the instant cases that in the cancellation note, the NIT, Agartala has assigned that the selection process is cancelled due to administrative reasons. In the counter affidavit, they have taken the plea that in the Advertisement itself it is stated that NIT, Agartala has the right to modify/cancel the selection process without assigning any reasons. However, during the course of hearing this Court posed a query to Mr. Somik Deb, learned senior counsel appearing for the NIT, Agartala as to whether at the very inception of the selection process there was any mention of conducting interview for final selection of the candidates. After drawing his attention to the “Scheme of Examination” [Annexure-7 to WP(C) No.454/2024], which the NIT, Agartala had declared before commencement of the selection process, Mr. Deb, learned counsel for the respondents-NIT on instruction has informed this Court that in the “Scheme of Examination” there was no mention of conducting interview, but, it was stipulated under notification dated 13.12.2022 as well as in the original Advertisement notification.

22. I have perused the notification dated 13.12.2022. At Clause (2) of the said notification it is stated thus:

“(2) From the panel of qualified candidates in written test/written test and CPT consisting of typing test are to be called to appear before the Selection Committee for Interview-cum-Interaction maintaining the ratio 1:6 category wise preferably for each post. In any stage, the number of candidates is less than for maintaining the ratio 1:6 then all the candidates who full fill minimum cut-off marks are called for Interview-cum-Interaction. The weightage of written test and Interview-cum-Interaction is 80:20.”

23. However, significant aspect is that this notification of conducting interview was cancelled vide notice dated 15.12.2022 [Annexure-R/3 to the rejoinder affidavit]. The said cancellation notice is stated thus:

*“NATIONAL INSTITUTE OF TECHNOLOGY AGARTALA
AGARTALA-799046 (TRIPURA)*

No. NITA. 2 (519-Estt)/2019/ Vol. III/2022/11119-11121

Date: 15/12/2022

Notice for Cancellation of Interview-cum-Interaction

Subject: Cancellation of Interview-cum-Interaction w.r.t. recruitment of Group-B and Group-C in the various non-teaching positions.

Ref. (1) Notice vide No. F. No. NITA. 2 (519-Estt)/2019/ Vol. III/2022/10966-68, dated: 12/12/2022

(2) Notification vide No. F. No. NITA. 2 (519-Estt)/2019/Vol. III/2022/11031-32, dated: 13/12/2022

With reference to the subject cited above, it is hereby informed to all concerned that the Interview cum-Interaction scheduled from 16-12-2022 to 20-12-2022 is hereby cancelled. Further course of actions will be intimated in due course of time.

This is issued with the approval of the Competent Authority.

Sd/-

(Prof. D. Bhattacharya)

Registrar (I/C), NITA”

24. On perusal of the above notice of cancellation dated 15.12.2022, one noticeable feature is that the NIT authority has not cancelled the list of short listed candidates who became successful in the written examination. Only that part of the notification dated 13.12.2022 which relates to the appearance of qualified candidates before the Selection Committee for Interview-cum-Interaction has been cancelled.

25. Having gone through all the decisions as cited above, the Hon'ble Supreme Court held that candidates being successfully appeared in examination have no indefeasible or absolute right of appointment, but, at the same time, the employer has no unfettered license to cancel the selection process at their sweet will and whims merely based on the reason that in the Advertisement itself it was noted that the employer has the right to modify/cancel the entire selection process without assigning any reason.

26. One interesting feature, in this situation, necessary to be discussed herein that the relevant advertisement stipulates option that the NIT

authority has the right to either modify or cancel the entire selection process. The notice dated 15.12.2022 is a clear indication that the NIT authority only intended to modify the selection process to cancel the interview-cum-interaction process in line of DoPT OM dated 11.12.2019 asking the NITs to discontinue the process of taking interview at various junior level posts. However, instead of exercising the option to “modify” the said advertisement term, the NIT authority suddenly and inexplicably cancelled the entire selection process without providing any logical or justifiable explanation.

27. Legitimate expectation is such an expectation that may include expectation which goes beyond enforceable legal rights provided they have some reasonable basis. In the instant cases, there is reasonable basis of such expectation. In the case of ***U.P. Awas Evam Vikas Parishad v. Gyan Devi(Dead) by Lrs. and Ors***, reported in (1995) 2 SCC 326, the Hon’ble Supreme Court held thus:

“In situations where even though a person has no enforceable right yet he is affected or likely to be affected by the order passed by a public authority the courts have evolved the principle of legitimate expectation. The expression which is said to have originated from the judgment of Lord Denning in Schmidt v. Secy. of State for Home Affairs [(1969) 2 Ch 149 : (1969) 1 All ER 904 : (1969) 2 WLR 337] is now well established in public law. In Attorney General of Hong Kong v. Ng Yuen Shiu [(1983) 2 AC 629 : (1983) 2 All ER 346 : (1983) 2 WLR 735, PC] Privy Council applied this principle where expectations were “based upon some statement or undertaking by or on behalf of, the public authority” and observed:

“Accordingly, ‘legitimate expectations’ in this context are capable of including expectations which go beyond enforceable legal rights, provided they have some reasonable basis. A person may have a legitimate expectation of being treated in a certain way by an administrative authority even though he has no legal right in private law to receive such treatment.” [Halsbury’s Laws of England, 4th Edn., Vol. 1(1), re-issue para 81] ”

28. In another case, namely, ***Food Corporation of India v. M/s. Kamdhenu Cattle Feed Industries***, reported in (1993) 1 SCC 71, the Hon’ble

Supreme Court held that the legitimate expectation becomes an enforceable rights in case of failure of State or its instrumentalities to give due weight to it. In the instant cases also, the respondents-NIT have failed to give the weight to the select panel which includes the qualified candidates including the petitioners. More so, no bonafide decision has been made by the respondents-NIT in order to satisfy the requirement of non-arbitrariness in the matter under challenge.

29. *Fairness and fair-play are the essentialities of administrative actions. In furtherance thereof, reasons are the soul of all administrative orders.* In the context of the above two writ petitions, I do not find any justifiable reasons to cancel the selection process since the results of the written examination are already before the NIT, Agartala, and when DoPT discontinued the process of conducting interview for selection of the candidates against any non-teaching posts. The notice dated 15.12.2022 cancelling the process of conducting interview of the qualified short listed candidates does not suffer from any illegalities or arbitrariness. In the opinion of this Court, the respondents-NIT can go ahead of completing selection process on the basis of the qualified and eligible candidates from the select panel as it has already been published. There is no quarrel to the propositions as submitted by learned senior counsel Mr. Deb that selected candidates have no indefeasible right of appointment for the posts they applied for. The decisions of the Supreme Court as relied upon by Mr. Deb, learned senior counsel in this respect is well accepted principle, however, it is also equally true as I have discussed in the preceding paragraphs that before cancelling the merit list of the candidates, the employer must assign cogent reasons behind

its cancellation or to come up with plausible/acceptable explanation to cancel a fair selection process.

30. As I have already said, that in the instant cases, there is no complaint of irregularities or malpractices and in absence of any rational grounds of cancelling the selection process, according to me, is illegal, arbitrary, discriminatory and violative of Article 14 of the Constitution of India. Accordingly, the impugned cancellation notification dated 03.06.2024 [**Annexure-18** to WP(C) No.454/2024 and **Annexure-14** to WP(C) No.489/2024] is hereby set aside and quashed.

31. Accordingly, the respondents-NIT shall consider the appointment of the successful/qualified candidates including the petitioners, if they otherwise qualified and eligible, on the basis of the merit list and complete the process in accordance with rules within a period of 3(three) months from the date of receipt of a copy of this judgment and order.

32. The above two writ petitions are disposed of in the above terms.

JUDGE

SANJAY GHOSH  Digitally signed by SANJAY GHOSH
Date: 2025.03.13 16:54:13 +05'30'

sanjay