

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) No.185 of 2025**

Sri Charmajoy Tripura,

S/O- Sri Chetrang Tripura,

R/o- Khagendra Roaja Para,

P.O.- Harincherra,

P.S.- Ambassa,

Dist.-Dhalai Tripura, PIN-799289.

.... Petitioner(s).

Versus

1. The State of Tripura,
to be represented by the Secretary to the
Govt. of Tripura,
Public Works Department (PWD),
New Secretariat Building,
New Capital Complex, Agartala,
District- West Tripura, PIN-799010.

2. The District Magistrate & Collector,
Dhalai District, Jawaharnagar,
Ambassa
District- Dhalai Tripura,
PIN-799289.

3. The Block Development Officer,
Ambassa R.D. Block, Ambassa,
District-Dhalai, Tripura, PIN-799289.

4. The Executive Engineer,
D.W.S. Circle, Ambassa Division,
Jawaharnagar, Ambassa,
Dist.- Dhalai Tripura, PIN-799289.

5. The Chairman,
Ambassa, Block Advisory Committee,
Dist.-Dhalai Tripura, PIN-799289.

6. Sri Karkajoy Tripura,
S/o- Sri Rone Kumar Tripura
R/o- Khagendra Roaja Para,
P.O.- Harincherra, P.S.- Ambassa,
Dist.- Dhalai Tripura, PIN-799289.

.....Respondent(s).

For Petitioner(s)	:	Mr. Kabrabam Dharendra Singha, Adv.
For Respondent(s)	:	Mr. Karnajit De, Addl. G.A. Mr. Herojit Debbarma, Adv.
Date of Hearing	:	27.01.2026
Date of delivery of Judgment and Order	:	30.01.2026
Whether fit for Reporting	:	YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

This writ petition is filed by the petitioner seeking the following reliefs:-

- (a) to admit this petition,
- (b) call for the records,
- (c) issue Rule, calling upon the respondents to show cause as to why a writ in the nature of Certiorari should not be issued quashing and setting aside the impugned office letter dated 29.11.2024 whereby the name of the petitioner as Pump Operator at Khagendra Roaja Para under Gurudhan Para VC has been dropped though selected earlier and replaced by the name of the private respondent No.6. (Annexure-E) AND/OR,
- (d) to show cause as to why a writ in the nature of Mandamus should not be issued directing/ commanding the respondent authorities to recall the impugned office letter dated 29.11.2024 whereby the name of the petitioner as Pump Operator at Khagendra Roaja Para under Gurudhan Para VC has been dropped and replaced by the name of the private respondent No.6. (Annexure-E), AND/OR,
- (e) to issue a writ in the nature of Mandamus or pass any other appropriate order or direction directing/commanding the respondent authorities to appoint the petitioner to the post of Pump Operator at Khagendra Roaja Para under Gurudhan Para VC as per the office letter vide No.F.8(26)/BDO/AMBS/PANCH/2024-25/1897 Dated 08/10/2024 issued by the respondent No.3 forthwith, (reflected in Annexure-E) AND/OR,
- (f) to issue a writ in the nature of Mandamus or pass any appropriate order or direction directing / commanding the respondent authorities either to appoint the petitioner to the post of Pump Operator or to pay appropriate compensation in lieu of his land or to vacate the land of the petitioner peacefully within a stipulated period as may be fixed by this Hon'ble Court.

-AND-

(g) after hearing the parties, be pleased to make the Rule absolute and/or pass such further order(s) as to Your Lordships may deem fit and proper.

-AND-

(h) In the interim, it is graciously prayed that pending disposal of the Rule the execution/operation of the impugned office letter dated 29.11.2024 dropping the name of the petitioner and any attempt so made to appoint the private respondent in place of the petitioner to the post of Pump Operator at Khagendra Roaja Para under Gurudhanpara VC, Ambassa, Dhalai Tripura may be stayed and/or pass such further order(s) as to Your Lordships may deem fit and proper.

02. Heard Learned Counsel, Mr. Kabrabam Dhirendra Singha appearing on behalf of the petitioner. Also heard Learned Addl. G.A., Mr. Karnajit De appearing on behalf of the State-respondents and further heard Learned Counsel, Mr. Herojit Debbarma appearing on behalf of the respondent No.6. But inspite of service of notice none appeared on behalf of the respondent No.5.

03. At the time of hearing, Learned Counsel, Mr. K. D. Singha appearing for the petitioner submitted that the petitioner is a person belonging to ST (Scheduled Tribe) community of Tripura and a poor jhumia (Jhum cultivator) family and he is Class-VIII passed. In the year 2010, Government of Tripura allotted plots of land to the petitioner measuring 8.00 acre situated at Khagendra Ruyaja Para under Gurudhan Para Panchayat, Tehasil/ Taluka-Ambassa, District Dhalai, Tripura and on the basis of that Khatian bearing No.2/9, Plot No.48/p was created and the Type of Forest-RF classified as Type of Land- Tilla and it was under the Scheduled

Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007. It was also submitted that since 2010 the petitioner has been occupying the said land (Reliance was placed upon **Annexure-A** and **Annexure-B** in this regard).

04. Learned Counsel for the petitioner further submitted that in the year 2020 the respondent authorities approached the petitioner to set up a Drinking Water Supply Pump under the Government's Innovative Scheme over the said land of the petitioner and as the petitioner urged for compensation that time, it was assured that the petitioner would be given appointment as Pump Operator of the said Water Supply Pump as a owner of the said land. On assurance the land was given by him and accordingly the respondent authorities constructed pump house over the land of the petitioner. It was also informed by the respondent authorities to the petitioner to submit application for his appointment as Pump Operator and accordingly the petitioner submitted representation which was duly received by respondent Nos.3 and 4. Further reliance was placed in this regard on **Annexure-C** and **Annexure-D**.

05. It was later on informed to the petitioner that he would be given appointment shortly as Pump Operator at Khagendra Ruyaja Para under Gurudhan Para VC and according to the petitioner he was officially selected as Pump Operator of the said Khangendra Ruyaja Para Pump Machine by office order dated 08.10.2024 issued by the respondent No.3 but the copy

of the same was not supplied to him. But reference of the same could be gathered from **Annexure-E**. But surprisingly the petitioner came to know that vide office letter dated 29.11.2024 (**Annexure-E**) the respondent No.6 has been appointed as Pump Operator for the said pump machine most illegally without giving any opportunity of being heard to him. Knowing the same fact the petitioner visited the office of the respondent authorities and submitted representation on 01.02.2025 (**Annexure-F**) but no action was taken.

06. Further representation was made to the Assistant Engineer, DWS, Ambassa Sub-Division, Ambassa, Dhalai Tripura with a copy to respondent No.5 (**Annexure-G**). But inspite of that no action was taken. So under compelling circumstances the petitioner has filed this petition before this Court.

07. It was further submitted that, in this regard the villagers of the village set a public meeting on 14.02.2025 wherein respondent No.6 namely, Sri Karkajoy Tripura and Sri Kinadhan Tripura who were appointed as Pump Operators were invited to attend but those persons did not attend the meeting and in this regard resolution was taken by the villagers (**Annexure-H**) and the same was also submitted to the authority but inspite of that also no action was taken.

08. The respondents-State contested the writ petition by filing one counter-affidavit wherein in Para Nos.4, 5 and 6 it was submitted as under :-

"4. That, accordingly, since from issue of the said Notification the Concerned Panchayat /BAC/ADC committees were engaging persons for operation of water supply scheme under Dhalai District also & subsequently as per decision taken by the Tripura State Government the department issued their wages from grant-in-Aid fund to the concerned BDOs'/Executive Officers directly through LOC accordingly the concerned BDOs are making their monthly wages according to their attendance. In this connection, as per said guide line, State Government is not responsible or eligible for engagement of any Pump Operator.

5. That, as per the above guideline a letter from BDO, Ambassa was received along with a resolution duly approved by BAC Chairman, Ambassa wherein Petitioner was appointed as pump operator under Innovative water supply scheme at Khagendra Roaja Para on 08-10-2024. Thereafter another letter from BDO, Ambassa was received on 29-11-2024 wherein the name of the petitioner was dropped. Accordingly action was taken up from the Executive Engineer, DWS Division, Ambassa. It is pertinent to mentioned here that the matter of selection of pump operators for operation of such water supply schemes are totally taken up by Panchayat basis, a resolution of selected candidates is approved by BAC Chairman and forwarded by BDO's to the PWD(DWS) for payment of monthly wages.

6. That, with regard to para 7, I say that the issue is not related to the PWD (DWS). Panchayat Raj & Autonomous District Council Bodies that the concerned Panchayat/BAC/ADC committees is fully responsible for selection/engagement of person for operation & mtc. Of water supply scheme in Rural areas."

09. Respondent No.6 also submitted counter-affidavit and submitted that since 2021 he was discharging his duties as Pump Operator of the said village. But surprisingly regarding his appointment in the year 2021, the said respondent could not submit any documentary evidence before this Court.

10. At the time of hearing, Learned Addl. G.A., Mr. K. De appearing for the respondents-State submitted that the decision was taken based on the recommendation of Chairman, Ambassa, BAC. But surprisingly the Chairman, BAC inspite of receipt of notice did not appear before the Court. But the State-respondents in the counter-affidavit did not deny the fact of ownership of the land by the present petitioner. Even the respondent No.6 also did not deny the said fact. Rather from the counter-affidavit it appears that, initially the petitioner was appointed by the respondent No.3 on 08.10.2024 but thereafter another letter was received from BDO, Ambassa RD Block, Dhalai District on 29.11.2024 wherein the name of the petitioner was dropped. But in this regard, the petitioner was not heard personally even no written communication was made to him.

11. Learned Counsel appearing for the petitioner at the time of hearing relied upon one citation of the Hon'ble Supreme Court of India in ***East Coast Railway and Another Vs. Mahadev Appa Rao and Others*** reported in **(2010) 7 SCC 678** wherein in Para Nos.23 and 24 of the Hon'ble Supreme Court observed as under:-

"23. Arbitrariness in the making of an order by an authority can manifest itself in different forms. Non-application of mind by the authority making the order is only one of them. Every order passed by a public authority must disclose due and proper application of mind by the person making the order. This may be evident from the order itself or the record contemporaneously maintained. Application of mind is best demonstrated by disclosure of mind by the authority making the order. And disclosure is best done by recording the reasons that led the authority to pass the order in question. Absence of reasons either

in the order passed by the authority or in the record contemporaneously maintained is clearly suggestive of the order being arbitrary hence legally unsustainable.

24. In the instant case the order passed by the competent authority does not state any reasons whatsoever for the cancellation of the typing test. It is nobody's case that any such reasons were set out even in any contemporaneous record or file. In the absence of reasons in support of the order it is difficult to assume that the authority had properly applied its mind before passing the order cancelling the test."

12. Reference was made on another citation of the Hon'ble Supreme Court of India in **MSR. Maneka Gandhi Vs. Union of India and Another** reported in **(1978) 1 SCC 248** wherein in the last part of Para Nos.8 and 9 of the Hon'ble Supreme Court observed as under:-

"8. The principle of *audi alteram partem*, which mandates that no one shall be condemned unheard, is part of the rules of natural justice. In fact, there are two main principles in which the rules of natural justice are manifested, namely, *nemo judex in causa sua* and *audi alteram partem*. We are not concerned here with the former, since there is no case of bias urged here. The question is only in regard to the right of hearing which involves the *audi alteram partem* rule. Can it be imported in the procedure for impounding a passport?.....

9. Thus, the soul of natural justice is 'fair-play in action' and that is why it has received the widest recognition throughout the democratic world. In the United States, the right to an administrative hearing is regarded as essential requirement of fundamental fairness. And in England too it has been held that 'fair-play in action' demands that before any prejudicial or adverse action is taken against a person, he must be given an opportunity to be heard. The rule was stated by Lord Denning, M.R. in these terms in *Schmidt v. Secretary of State for Home Affairs* : (1969) 2 Ch D 149 - "where a public officer has power to deprive a person of his liberty or his property, the general principle is that it has not to be done without his being given an opportunity of being heard and of making representations on his own behalf". The same rule also prevails in other Common-wealth countries like Canada, Australia and New Zealand. It has even gained access to the United Nations (vide *American Journal of International Law*, Vol. 67, page 479). Magarry, J., describes natural justice "as a distillate of due process of law" (vide *Fontaine v. Chastarton* : (1968) 112 Solicitor General 690). It is the quintessence of the process of justice inspired and guided by 'fair-play in

action'. If we look at the speeches of the various law Lords in *Wiseman's* case, it will be seen that each one of them asked the question "whether in the particular circumstances of the case, the Tribunal acted unfairly so that it could be said that their procedure did not match with what justice demanded", or, was the procedure adopted by the Tribunal 'in all the circumstances unfair'? The test adopted by every Law Lord was whether the procedure followed was fair in all the circumstances and 'fair-play in action' required that an opportunity should be given to the tax-payer "to see and reply to the counter-statement of the Commissioners" before reaching the conclusion that "there is a prima facie case against him". The inquiry must, therefore, always be : does fairness in action demand that an opportunity to be heard should be given to the person affected?"

Referring the same Learned Counsel for the petitioner submitted that in the given case, the action of the respondent authorities show the arbitrariness and by their illegal act they have deprived the right of the petitioner without offering him any opportunity or personal hearing and without any written communication to him. So, Learned Counsel for the petitioner urged before the Court to allow the writ petition, applying the aforesaid principle of law laid down by the Hon'ble Apex Court.

13. Finally, Learned Counsel for the petitioner referred another citation of the Supreme Court of India in ***Kumari Shrilekha Vidyarthi and Others Vs. State of U.P. and Others*** reported in **(1991) 1 SCC 212** wherein in Para No.36, the Hon'ble Apex Court observed as under:-

"36. The meaning and true import of arbitrariness is more easily visualized than precisely stated or defined. The question, whether an impugned act is arbitrary or not, is ultimately to be answered on the facts and in the circumstances of a given case. An obvious test to apply is to see whether there is any discernible principle emerging from the impugned act and if so, does it satisfy the test of reasonableness. Where a mode is prescribed for doing an act and there is no impediment in following that procedure, performance

of the act otherwise and in a manner which does not disclose any discernible principle which is reasonable, may itself attract the vice of arbitrariness. Every State action must be informed by reason and it follows that an act uninformed by reason, is arbitrary. Rule of law contemplates governance by laws and not by humour, whims or caprices of the men to whom the governance is entrusted for the time being. It is trite that 'be you ever so high, the laws are above you'. This is what men in power must remember, always."

Referring the same, Learned Counsel further submitted that from the facts and circumstances of the case it will transpire the arbitrariness of the respondent authorities in rejecting the name of the petitioner as Pump Operator and to include respondent No.6 as Pump Operator in place of the petitioner inspite of issuing his engagement order on 08.10.2024.

14. I have heard both the sides at length and perused the petitioner's documents annexed with this writ petition and the counter-affidavit submitted by the respondents-State and private respondent No.6. As already stated, the respondents-State in the counter-affidavit in Para No.5 specifically admitted that on 08.10.2024 the petitioner was appointed as Pump Operator under Innovative water supply scheme under Khagendra Roaja Para but thereafter his name was dropped and respondent No.6 was recommended for appointment. But in this regard no personal hearing was given to the petitioner. Even no written communication was made to him by the respondent authorities. Admittedly, the petitioner could not produce the document dated 08.10.2024. Respondent No.5 also inspite of receipt of notice did not come before this Court

to challenge the same which also shows its arbitrariness to delete the name of the petitioner from engaging him as Pump Operator for the respective village. The respondent No.6 admittedly in the year 2024 by order dated 29.11.2024 was appointed as Pump Operator in place of the petitioner. But the plea taken by the said respondent that he was engaged in the year 2021 was not supported by any documentary evidence. Although it was the admitted position that, he undergone training earlier. There is no evidence on record that for acquiring/using the land of the petitioner and for construction of pump house any sort of compensation was given to the present petitioner at any point of time. The citations referred by the petitioner squarely cover the case of the petitioner.

15. Thus, after hearing both the sides and also after going through the observations referred by the petitioner in the aforementioned cases it appears that the principles of natural justice has been violated in respect of the petitioner by the respondent authorities by not appointing him as Pump Operator although he was engaged/appointed on 08.10.2024 but later on without any cogent reason by subsequent letter dated 29.11.2024 his name was deleted from the letter of recommendation which shows arbitrariness on the part of the respondent authorities and the same cannot be permitted in the eye of law.

The citations referred by the petitioner are very much applicable for decision of this case. Accordingly in

deciding this writ petition I have taken note of the said observation made by the Hon'ble Apex Court in the present case.

16. In the result, the writ petition filed by the petitioner is hereby allowed. The communication dated 29.11.2024 written by BDO, Ambassa RD Block, Dhalai District to The Executive Engineer, D.W.S., Ambassa Division, Jawaharnagar: Dhalai District recommending the name of the respondent No.6 as Pump Operator for the respective village deleting/dropping the name of the present petitioner from the said communication stands quashed/set aside accordingly. The respondent authorities are hereby asked to appoint the petitioner immediately to the post of Pump Operator at Gurudhan Para VC under Innovative Scheme at Khagendra Roaja Para immediately preferably within a period of 2 (two) months from the date of passing of this judgment and order.

With these observations, this writ petition is disposed of.

Pending application/s, if any, also stands disposed of.

JUDGE

Amrita

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