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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5667 OF 2024

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Sujit Manohar Patil

...Petitioner

Versus

The Panvel Municipal Corporation & Ors.

...Respondents

Mr. Prasad K. Dhakephalkar, Senior Advocate, Mr. Ramesh D. Soni,
Mr. Rushar Momaiyah i/b. Ram and Co. for the Petitioner.

Mr. Shreekant V. Gavand for Respondent No.1 – Panvel Municipal
Corporation.

Mr. P.P. Kakade, Addl. G.P. with Smt. D.S. Deshmukh, AGP for
Respondent Nos.3 and 4 - State

CORAM : R.I. CHAGLA
ADVAIT M. SETHNA, JJ.

Reserved on : 10TH APRIL, 2026.

Pronounced on : 5TH MAY, 2026.

J U D G M E N T – (Per R.I. Chagla J.)

1. Rule. Rule made returnable forthwith. Heard by consent
of parties.

2. By this Writ Petition, the Petitioner is seeking to quash

and/or set aside the letter of rejection dated 27th March, 2024 issued by the Respondent No.1 – Panvel Municipal Corporation (“Corporation”) under the signature of the Deputy Commissioner (Exhibit M to the Petition). Further, the Petitioner is seeking quashing and/or setting aside of communication dated 14th March, 2024 issued by Respondent No.3 to Respondent No.2, whereby the cut off date of 2nd November, 2017 is provided for considering the certificate issued by Institute of Fire Engineers – United Kingdom – UK (Member – MI) (for short “IFE – UK”) Exhibit K to the Petition. Consequential prayer is sought directing Respondent Nos.1 and 2 to issue a letter of appointment to the Petitioner on the basis of its selection for the post of Deputy Chief Fire Officer without considering the said communication dated 14th March, 2024 on the basis of eligibility criteria provided in the service rules and advertisement issued by the Respondent No.1 inviting applications for the post of Deputy Chief Fire Officer, if otherwise found fit for the said post.

3. The Petitioner is presently working as Divisional Fire Officer with Pune Metropolitan Region Development Authority (“PMRDA”). The Petitioner has been working on the aforementioned post since 2nd January, 2023. Prior thereto, the Petitioner worked as

a Sub-Officer in the office of Directorate of Maharashtra Fire Service from 6th January, 2014 to 30th April, 2016. Subsequent to which he worked as Fire Officer in the PMRDA, Pune from 1st June, 2016 to 1st January, 2023. These appointments of the Petitioner were on contractual basis.

4. The Respondent No.1 is the Panvel Municipal Corporation (“Corporation”) which is the planning authority for the City of Panvel. The Respondent No.1 – Corporation is constituted under the Maharashtra Municipalities Act and providing fire fighting service and dealing with natural calamities and disaster management is one of the most important civic duties of the Respondent No.1-Corporation. The Respondent No.2 is the Commissioner of Respondent No.1 – Corporation and the Administrative Head of the Corporation having various powers under the Maharashtra Municipalities Act, Maharashtra Regional Town Planning Act and the Development Control Rules etc. The Respondent No.3 is the Directorate of Maharashtra Fire Service which is the Apex Body of the Fire Department in the State of Maharashtra and the Respondent No.4 is the State of Maharashtra.

5. The Petitioner has acquired several degrees and certificates relating to Fire Management and Engineering and one such qualification obtained is from IFE – UK.

6. The brief facts leading to the filing of this Writ Petition are as under:-

(i) A public advertisement had been issued by the Respondent No.1 – Corporation on 12th July, 2023 regarding recruitment for various positions (377 posts) on its establishment. One of the posts was of Deputy Chief Fire Officer, Group – B and the qualification for the said post including holding a Grade – I qualification from the IFE – UK or India. Further, a minimum of six years of work experience as a Deputy Fire Station Officer or in an equivalent position within a Municipal Corporation, Municipal Council, Special Planning Authority or a Government / Semi-Government Fire Service was mandatory.

(ii) After completion of the stipulated procedure, the Petitioner's name was recommended for the post of Deputy Chief Fire Officer, Group – B ("the said post") as he was holding

Membership Certificate issued by IFE – UK.

(iii) The Petitioner was called for verification of documents on 7th March, 2024.

(iv) A complaint had been received by the Respondent No.1 – Corporation whereby it was pointed out that a mistake had been committed by the Corporation whilst stipulating qualification for the said post and a letter dated 9th January, 2024 addressed to Kalyan Dombivali Municipal Corporation by Director, Maharashtra Fire Services was annexed wherein modified Recruitment Rules with respect of Fire Officer to be appointed in various Municipal Corporations were annexed. It was pointed out that certificate obtained from IFE (India) and IFE (UK) are valid only till 2013 and 2017 respectively.

(v) The Respondent No.1 – Corporation sought clarification from Director, Maharashtra Fire Services with respect to validity of Membership certificate issued by IFE (India) and IFE (UK).

(vi) The Director of Fire Services by communication dated 14th March, 2024 pointed out that the Ministry of Human Resources Development Department has derecognized the course conducted by IFE (India) as per their O.M. dated 6th December, 2012 and as such certificate issued by IFE (India) cannot be accepted from 31st May, 2013. It was also clarified that since fire subject is purely a technical subject and most of the subjects are engineering related subjects, in view of the judgment delivered by the Supreme Court in *Orissa Lift Irrigation Corp. Ltd. v. Rabi Sankar Patro & Ors*¹, the certificate issued by IFE (UK) cannot be accepted w.e.f. 3rd November, 2017 as the said institute does not conduct regular classes not even distance education, and students themselves with help of reference books appear and pass the examination.

(vii) The Respondent No.1 – Corporation by communication dated 27th March, 2024 informed the Petitioner that the certificate of membership issued to him by IFE (UK) is dated 20th April, 2022 and such membership certificate cannot be accepted after 3rd November, 2017. Hence, the name of the

¹ (2018) 1 SCC 468 dated 3rd November, 2017.

Petitioner had been excluded from the list of eligible candidates.

(viii) The Petitioner accordingly filed Writ Petition on 5th April, 2024 impugning the communication dated 27th March, 2024 and the prior communication dated 14th March, 2024.

7. Mr. Prasad Dhakephalkar, the learned Senior Counsel appearing for the Petitioner has submitted that by the impugned communication dated 27th March, 2024, the Petitioner's name has been deleted from the selection list for the post of Deputy Chief Fire Officer, Group – B ("said post") on the ground that the Petitioner does not have the requisite qualification and experience.

8. Mr. Dhakephalkar has submitted that the Petitioner has been working as Divisional Fire Officer in PMRDA since 2nd January, 2023 and prior to which he had worked as Fire Officer from 1st June, 2016 to 1st January, 2023. The Petitioner has also worked as Sub Officer in the office of the Directorate of Maharashtra Fire Service from 6th January, 2014 to 30th April, 2016. He has submitted that the Petitioner has, in so working on the aforementioned posts, sufficient experience i.e. over six years and thus meeting the

requirement of minimum work experience for the said post.

9. Mr. Dhakephalkar has further submitted that the Petitioner has also acquired various qualifications viz. (i) Graduate B.Sc Mumbai University in 2011; (ii) Membership (MI-FIRE) of IFE (UK) apart from various qualifications as mentioned at page 9 of the Petition.

10. Mr. Dhakephalkar has submitted that the service rules (“Recruitment Rules”) of the Respondent No.1 – Corporation which are invogue even today mention as requisite qualification for the said post, the Membership of IFE (UK). Further, in the letter/Notification dated 31st May, 1976 issued by Government of India, membership of the IFE (UK) is recognized qualification for the said post.

11. Mr. Dhakephalkar has placed reliance upon the letter dated 19th July, 2023 issued by the Respondent No.3 - Directorate of Maharashtra Fire Service (Exhibit ‘E’ to the Petition), wherein it is clearly mentioned that membership of the IFE (UK) is a recognized qualification for the said post.

12. Mr. Dhakephalkar has also referred to the corrigendum of advertisement dated 31st July, 2023 wherein also the membership of IFE (UK) is a recognized qualification. He has submitted that accordingly the Petitioner is fully qualified as he has a Graduate Degree and after Graduation, he has membership from the IFE (UK).

13. Mr. Dhakephalkar has submitted that after selection of the Petitioner, the impugned letter dated 14th March, 2024 has been issued by the Directorate of Maharashtra Fire Service which purports to provide a clarification that the certificate issued by IFE (UK) cannot be accepted w.e.f. 3rd November, 2017, as the institute does not conduct regular classes (not even distance education) and students themselves by the help of reference books appear and pass these examination. He has submitted that the impugned communication is illegal as it is against/contradictory to its own Directorate of Maharashtra Fire Services letter dated 19th July, 2023.

14. Mr. Dhakephalkar has submitted that the impugned letter dated 14th March, 2024 places reliance on the judgment of the Supreme Court in *Orissa Lift Irrigation Corp. Ltd. (Supra)* which judgment is inapplicable. He has submitted that the said judgment

was in the context of technical education courses covered by AICTE Act, 1987 and carried out by Deemed to be Universities in distance education.

15. The Supreme Court had by the said judgment restrained all Deemed to be Universities from carrying on the said courses from Academic Session 2018-19 onwards unless and until it is permissible to conduct such courses in distance education mode and specific permissions are granted by the concerned statutory/regulatory authorities in respect of each of those courses and unless the off-campus Centres/Study Centres are individually inspected and found adequate by the concerned Statutory Authorities. It has been held that the approvals have to be course specific. He has submitted that Fire Service is not covered by said definition of “Technical Education” under Section 2(g) of AICTE Act, 1987.

16. Mr Dhakephalkar has submitted that the letters dated 6th December, 2012 and 10th July, 2012 are totally irrelevant. They concern IFE (India) and the certificate from these Institutes are not accepted from 31st May, 2013. It does not pertain to IFE (UK).

17. Mr. Dakephalkar has submitted that by the impugned letter dated 14th March, 2024, the cut off date viz. 3rd November, 2017 is the date of the said judgment of the Supreme Court namely *Orissa Lift Irrigation Corp. Ltd. (Supra)* which is not at all applicable to Fire Service and/or membership of IFE (UK).

18. Mr. Dhakephalkar has submitted that it is well settled that any change in qualification after the candidate has been selected is impermissible. In the present case, the Petitioner had been selected for the said post and was called for documents verification and it is only during the documents verification that the Respondent No.3 acting upon a complaint made issued the impugned letter dated 14th March, 2024. This further led to the Respondent No.1 - Corporation issuing the impugned letter dated 27th March, 2024 informing the Petitioner that the Certificate of Membership issued to him by IFE (UK) on 20th April, 2022 cannot be accepted as valid qualification since it was issued after the cut off date viz. 3rd November, 2017. The name of the Petitioner had accordingly been excluded from the list of eligible candidates.

19. Mr. Dhakephalkar has submitted that the Supreme Court

in *Sushil Kumar Pandey & Ors. v. The High Court of Jharkhand & Anr.*² has held that the alteration of selection criteria after selection process is concluded is illegal as it runs counter to the Recruitment Rules. He has also placed reliance upon the judgment of the Supreme Court in *Sivanandan C.T. and Ors. v. High Court of Kerala & Ors*³, which holds that the basis of the doctrine of legitimate expectation in public law is founded on the principles of fairness and non-arbitrariness in Government dealings with individuals. It recognizes that a public authority's promises or past conduct will give rise to a legitimate expectation. The said judgment has placed reliance upon the judgment of *Lord Diplock in the locus classicus, Council of Civil Service Unions v. Minister for the Civil Service*⁴. It was held therein that Courts can exercise the power of judicial review of administrative decisions in situations where such decision deprives a person of some benefit or advantage which *inter alia* they have received assurance from the decision-maker that the advantage or benefit will not be withdrawn without giving them an opportunity of advancing reasons for contending that the advantage or benefit should not be withdrawn. He has also placed reliance upon the

² Writ Petition (Civil)

³ (2024) 3 Supreme Court Cases 799.

⁴ 1985 AC 374.

judgment of the Supreme Court in *K. Manjusree v. State of Andhra Pradesh & Anr.*⁵ wherein the Supreme Court held that the Full Court had approved the Resolution dated 30th November, 2004 of the Administrative Committee and also decided to retain the entire process of selection consisting of written examination and interviews. Having done so, it could not have introduced a new requirement of minimum marks in interviews, which had the effect of eliminating candidates, who would otherwise be eligible and suitable for selection. Accordingly, it was held that the action of the Full Court in revising the merit list by adopting a minimum percentage of marks for interview is impermissible.

20. Mr. Dhakephalkar has submitted that the aforementioned judgments are applicable in the present case. He has accordingly submitted that the present Petition be allowed as the impugned letter dated 27th March, 2024 has departed from the Recruitment Rules which accept Membership Certificate of IFE (UK) as requisite qualification for the said post, by providing cut off date of 3rd November, 2017, for issuance of the said certificate, the basis of which is the judgment of the Supreme Court in *Orissa Lift Irrigation*

⁵ (2008) 3 Supreme Court Cases 512.

Corporation Ltd. (Supra) which itself is inapplicable.

21. Mr. Shreekant Gavand, the learned Counsel appearing for the Respondent No.1 – Corporation has submitted that the qualification stipulated for the said post must be a legally valid qualification and since the qualification mentioned in the subject advertisement/Recruitment Rules was erroneous and contrary to law, the same cannot be relied upon. He has submitted that an error or mistake on the part of executive to stipulate correct qualification in recruitment notice, would not make the candidate entitled to claim any right on such post on the basis of the qualification, which is not in consonance with law. The Corporation had accepted the fact that there was a mistake on their part while stipulating qualification for the said post and as such even after rejection of claim of the Petitioner, no other person has been given employment on the said post.

22. Mr. Gavand has submitted by virtue of Clause 15 of the terms and conditions mentioned in the recruitment notice, the Commissioner is empowered to stay or cancel the process of recruitment at any stage. He has submitted that since there was a

mistake on the part of Corporation while issuing the recruitment notice, the post is still vacant. Out of total 377 posts available for recruitment in Corporation, only 230 appointments were made and 142 posts are still vacant and fresh recruitment process will be conducted.

23. Mr. Gavand has submitted that the Urban Development Department of the Government of Maharashtra by its letter dated 12th June, 2025 has given its approval for making necessary changes by mentioning cut off date for accepting membership certificate of IFE (India) and IFE(UK) and directed all Corporations to make necessary changes in Recruitment Rules and same shall be done at the time of fresh process of recruitment.

24. Mr. Gavand has submitted that fire subject is a technical subject and without practical knowledge and proper lectures, a certificate obtained by passing examination on the basis of self-preparation, cannot be accepted and accepting such qualification would be detrimental to the interest and safety of local residents.

25. Mr. Gavand has submitted that the Government of India

granted equivalence to the certificate given by IFE(UK) and IFE(India) so as to treat them at par with degree/diploma in fire engineering and at that time AICTE Act, 1987 was not in existence and thus after the 1987 Act was promulgated, no institution is entitled to start or continue any course in 'Technical Education' without approval of AICTE and there is no approval to the course conducted by IFE(UK).

26. Mr. Gavand has submitted that even if it is assumed for the sake of argument, that fire would not be covered under the term 'Technical Education' then also the certificate issued by IFE (UK) cannot be accepted for want of approval of Distance Education council under the Indira Gandhi National Open University Act, 1985 and thereafter by Distance Education Bureau after 2013. The course conducted by said institutions is not even a Distance Course.

27. Mr. Gavand has submitted that the term 'Technical Education' as per Section 2(g) of AICTE Act would cover the subject fire. He has placed reliance upon the AICTE Approval Process Handbook 2017-18 and 2024-25. He has submitted that the 'Fire and Safety Engineering' has been classified as major discipline and

corresponding courses are provided.

28. Mr. Gavand has relied upon the Office Memorandum issued by Government of India, Ministry of Education and Culture dated 6th December, 2012 which declared that all the orders including Office Memorandum dated 30th April, 1983 issued by the Government of India granting equivalence to their courses will cease to have effect from 1st June, 2013 onwards. Thus students enrolled after 31st May, 2013 with IFE(India) are not entitled for jobs on the basis of qualification 'pass in the Graduateship Examination' conducted by IFE (India) (Office Memorandum dated 6th December, 2012 is annexed to Petition at page 100).

29. Mr. Gavand has submitted that the Office Memorandum dated 6th December, 2012 had been challenged by IFE (India) and other similarly placed institutions before the Delhi High Court. Initially, the said Office Memorandum was stayed, however, after considering law laid down by the Apex Court in the matter of '*Institution of Mechanical Engineers (India) v. State of Punjab & Ors*'⁶ the Delhi High Court upheld the Office Memorandum dated 6th

⁶ (2019) 16 SCC 95.

December, 2012 and dismissed the Petition.

30. Mr. Gavand has submitted that the Respondent No.1 – Corporation in its subject advertisement had not mentioned the date till which the Grade – I qualification from the IFE (India) would be accepted. This was contrary to the law i.e. Office Memorandum dated 6th December, 2012 but also against the law laid down by the Apex court. He has submitted that the Respondent No.1 – Corporation considering that the subject advertisement was incorrect correctly concluded that there was a mistake in issuing the subject advertisement.

31. Mr. Gavand has submitted that a perusal of the Office Memorandum dated 6th December, 2012 would show that it makes reference to the memorandum/order in force pertaining to the equivalence granted to the educational qualification in Central Government jobs and specifically states that the concerned orders will cease to have effect from 1st June, 2013 onwards. He has submitted that so far as Grade – I qualification from the IFE (UK) is concerned, the same is also held to be equivalent to the diploma course of National Fire Service College, Nagpur as per the

Notification dated 31st May, 1976 issued by the Government of India. He has submitted that considering import of the said Office Memorandum dated 6th December, 2012, the same would apply to the course conducted by IFE (UK).

32. Mr. Gavand has submitted that a similar Office Memorandum had been issued by the Government of India with respect to Institute of Mechanical Engineers (“IME”) (India). This has been reproduced in the judgment delivered by Apex Court in ***Indian Mechanical Engineers (India) v. State of Punjab & Ors***⁷. He has submitted that as can be seen from a comparison of the said Notifications i.e. the one issued in the context of the Institution of Mechanical Engineers with that issued in the context of the Institution of Fire Engineers (UK), merely, passing the examination conducted by the respective institutions was kept at par with the degree/diploma of proper recognized college/university. The validity of such notification was considered in detail by the Supreme Court in the aforementioned decision and while adjudicating the matter, the Supreme Court relied upon the law laid down in ***Orissa Lift Irrigation Corporation Ltd. (Supra)***. In the said judgment after considering the

⁷ (2019) 16 Supreme Court Cases 95.

term ‘Technical Education’ the Court observed that the AICTE is the sole repository of power to lay down parameters or qualitative norms for ‘Technical Education’ and further observed that any idea or innovation in that field is also a part of the concept of ‘Technical Education’ and must, as a matter of principle, be in the exclusive domain of AICTE. The Supreme Court by the said Order dated 3rd November, 2017 restrains all universities from conducting any courses through distance education mode. Thus, by virtue of public notice issued by AICTE and as per the judgment of Supreme Court in *Orissa Lift Irrigation Corporation Ltd. (Supra)* , the certificate issued by IFE(UK) cannot be considered as valid certificate for the purpose of employment.

33. Mr. Gavand has submitted that the Supreme Court in Institute of Mechanical Engineers (India) has considered the aspect of conferring degrees. It has been laid down that what cannot be done directly cannot be done indirectly. The Supreme Court has emphasized that the Engineering and Technical courses require intensive practical and workshop training, which forms the backbone of such education. He has submitted that Fire Engineering is inherently a technical/practical field. Therefore, a certificate obtained

solely through examinations (like those of the Institution of Fire Engineers) compromises educational standards and cannot be regarded as equivalent to a formal degree or diploma.

34. Mr. Gavand has submitted that the subject advertisement is *ex-facie* illegal and contrary to the law of the land under Article 141 of the Constitution. The recruitment notices published by the Respondent No.1 – Corporation without stipulating the mandatory cut off date for accepting qualification IFE(India) and IFE(UK) for the said post was erroneous and that Respondent No.1 – Corporation rightly discarded the claim of the Petitioner to the said post. He has accordingly submitted that the Petition is liable to be dismissed.

35. Having considered the submissions, it appears that the Petitioner had qualified for the post of Deputy Chief Fire Officer (“the said post”) in the Respondent No.1 – Corporation based upon the subject public advertisement issued on 12th July, 2023 and the Recruitment Rules. The Petitioner has also cleared the physical test and his name appeared at Sr. No.1 in the selection list for the said post published by the Respondent No.1- Corporation on 7th March, 2024. The qualification for the said post included Grade – I

qualification from the IFE (UK) or (India) and a minimum of six years of work experience as Deputy Fire Station Officer or in an equivalent position within a Municipal Corporation, Municipal Council, Special Planning Authority, or a Government/Semi Government Fire Service which was mandatory.

36. The Recruitment Rules of the Respondent No.1 Corporation also provided as one of the eligibility criteria for the said post, Membership of the IFE (UK). These Recruitment Rules are invogue even today. The Petitioner was having Membership Certificate issued by the IFE (UK) and over six years experience having worked as Divisional Fire Officer in Pune Metropolitan Region Development Authority (“PMRDA”) since 2nd January, 2023 and prior to which he had worked as Fire Officer from 1st June, 2016 to 1st January, 2023. The Petitioner has also worked as Sub Officer in the office of the Directorate of Maharashtra Fire Service from 6th January, 2014 to 30th April, 2016.

37. It is also pertinent to note that in the letter dated 19th July, 2023 issued by Respondent No.3 - Directorate of Fire Service (Exhibit ‘E’ to the Petition), it was mentioned that Membership of the

IFE (UK) is a recognized qualification for the said post.

38. It was only during the verification of documents submitted by the Petitioner along with the application, that the impugned communication dated 14th March, 2024 was issued by Respondent No.3 to the Commissioner of Respondent No.1 – Corporation viz. Respondent No.2, whereby a cut off date of 3rd November, 2017 was mentioned for considering the certificate issued by the IFE (UK). Thus, after selection of the Petitioner, the impugned letter dated 14th March, 2024 had been issued by the Respondent No.3, purportedly as a clarification and which was thereafter followed by the impugned letter of rejection dated 27th March, 2024 issued by Respondent No.1 – Corporation rejecting the Petitioner's selection to the said post. The impugned letter dated 14th March, 2024 ran contrary to the letter dated 19th July, 2023 issued by the very same Respondent No.3.

39. The impugned letter appears to be have been issued on the basis of the judgment of the Supreme Court in *Orissa Lift Irrigation Corp. Ltd. (Supra)*. The date of the Supreme Court judgment is applied as the cut off date viz. 3rd November, 2017 for

recognition for Membership of IFE(UK) as requisite qualification for the said post. This is inspite of the said judgment having nothing whatsoever to do with qualification from IFE (UK) for Fire Service. The said judgment having been passed in the context of Deemed to be Universities introducing new courses in 'Technical Education' without the approval of AICTE. The Supreme Court has restrained all Deemed to be Universities from carrying on any course in distant education mode from Academic Session 2018-19 onwards unless and until it is permissible to conduct such courses in distance education mode and specific permissions are granted by the concerned statutory/regulatory authorities in respect of each of those courses and unless the off-campus Centres/Study Centres are individually inspected and found adequate by the concerned Statutory Authorities. The approvals have to be course specific.

40. From a perusal of the said judgment, we are unable to accept that the said judgment can form the basis for issuance of the impugned letter clarifying that the courses conducted by IFE (UK) cannot be recognized as a qualification for Fire Service from 3rd November, 2017. The Supreme Court judgment (Supra) which issues directions in respect of Courses conducted by Deemed to be

Universities and which have been held to be regulated by AICTE under the AICTE Act, 1987, can in no way apply to courses conducted by the IFE (UK). This apart from there being merit in the contention of the Petitioner that ‘Technical Education’ as defined under Section 2(g) of AICTE Act, 1987 does not cover Fire Service and that there is no notification issued by the Central Government declaring Fire Services as a ‘Technical Education’ covered by AICTE.

41. It has been held by the Supreme Court in ***Sushil Kumar Pandey & Ors. (Supra)***, that precluding a candidate from appointment in violation of the Recruitment Rules without there being a finding on such candidate’s unsuitability, is an action which would fail the Article 14 test and shall be held to be arbitrary. It has been held that if the High Court is permitted to alter the selection criteria after the performance of individual candidates is assessed, that would constitute alteration of the laid down Recruitment Rules. Further, the submission on behalf of the High Court Administration in that case namely, that Rule 14 permits them to alter the selection criteria after the selection process is concluded and marks are declared has been held to be not a proper exposition of the said provision. In the present case the Petitioner had met the requisite

qualification and it was only after the selection of the Petitioner that the Respondent No.3 sought to alter the selection criteria by issuing the impugned letter dated 14th March, 2024. This would be impermissible as being contrary to the Recruitment Rules which are till date very much in vogue.

42. The Petitioner would also have a legitimate expectation to be appointed on the said post having met the requisite qualification under the Recruitment Rules. In *Sivanandan C.T. and Ors. (Supra)*, the Supreme Court has held that the basis of the doctrine of legitimate expectation in public law is founded on the principles of fairness and non-arbitrariness in Government dealings with individuals. It recognized that a public authority's promise or past conduct will give rise to a legitimate expectation. The doctrine is premised on the notion that public authorities, while performing their public duties, ought to honour their promises or past practices. The legitimacy of an expectation can be inferred if it is rooted in law, custom, or established procedure. Reliance has been placed on the Common Law Jurisprudence by *Lord Diplock in the locus classicus, Council of Civil Service Unions (Supra)* which holds that Courts can exercise the power of judicial review of administrative decisions in

situations where such decision deprives a person of some benefit or advantage which they have received assurance from the decision maker that the advantage or benefit will not be withdrawn without giving them an opportunity of advancing reasons for contending that the advantage or benefit should not be withdrawn. In the present case the legitimacy of the expectation is rooted in the Recruitment Rules and the qualification as provided therein which includes Membership of the IFE (UK) as the recognized qualification for Fire Service viz. the said post of Deputy Chief Fire Officer. Thus, the Respondents were required to adhere to the Recruitment Rules and appoint of the Petitioner on the said post, considering that the Petitioner had a legitimate expectation to be so appointed. Further, the Petitioner has been deprived of the benefit of being appointed on the said post without giving an opportunity to the Petitioner to advance reasons for contending that his selection to the said post should not be rejected.

43. The Supreme Court in *K. Manjusree (Supra)* has held that in the facts of that case that the Full Court could not have introduced a new requirement of minimum marks in the interviews, which had the effect of eliminating candidates, who would otherwise

be eligible and suitable for selection. Such action on the part of the Full Court in revising the merit list by adopting a minimum percentage of marks for interviews was held to be impermissible. In the present case, the Respondent No.3 by introducing a new requirement i.e. cut off date for acceptance of Membership of IFE (UK) as requisite qualification for Fire Service viz. the said post purportedly as and by way of clarification, the Petitioner who had been otherwise duly qualified for the said post for Deputy Chief Fire Officer as per the Recruitment Rules of the Respondent No.1 – Corporation as well as per the terms of subject advertisement and prior letter dated 19th July, 2023 issued by the same Respondent No.3 has been eliminated.

44. Reliance has been placed by the Respondents on Office Memorandum dated 6th December, 2012 by which recognition granted to all certificate/qualification awarded by Professional Bodies/institutions in the field of 'Technical Education' had been withdrawn. This included the order issued by the Government of India granting equivalence to a pass in the Graduateship Examination conducted since 1981 of the IFE(India) for the purpose of recruitment to the superior posts and services which ceases to have

effect from 1st June, 2013. The students enrolled after 31st May 2013 with IFE(India) are not entitled for jobs on the basis of qualification - 'pass in graduate examination conducted by IFE(India)' In our considered view the said Office Memorandum has no application to qualification from the IFE(UK) for Fire Service. Further, without making any change in the Recruitment Rules of the Respondent No.1 – Corporation, the Notification dated 31st May, 1976 issued by Government of India, Ministry of Education and Social Welfare (Department of Education) which provides that passing in Graduatship Examination of IFE (UK) is at par to with Advance Diploma for National Fire Service College, Nagpur for the purpose of recruitment to superior posts and a pass in the Associates Membership/Membership Examination of the IFE (UK) for the purposes of recruitment to superior post would be applicable.

45. The reliance placed by the Respondents in the judgment of *Indian Mechanical Engineers (India) (Supra)*, in order to contend that the validity of such notification has been considered by the Supreme Court by placing reliance upon *Orissa Lift Irrigation Corporation Ltd. (Supra)* is misconceived. This in view of our finding that the definition of 'Technical Education' under the AICTE Act, 1987

no where includes Fire Service. Further, presuming that Fire Service was included in the said definition, without there being any subsequent Government Notification withdrawing the Notification dated 31st May, 1976 coupled with the fact that the Recruitment Rules also recognize Membership of IFE (UK) to be a recognized qualification for Fire Service viz. the said post, the reliance on these judgments (Supra) to contend otherwise is misplaced.

46. Accordingly, we find merit in the present Petition. The impugned letters/communication dated 14th March, 2024 and 27th March, 2024 whereby the Petitioner has not been granted appointment to the said post and his selection has been rejected is contrary to the prevailing law and requires to be quashed and set aside.

47. We accordingly allow the Petition in terms of prayer clauses (a) and (b) by quashing and setting aside the impugned communication dated 14th March, 2024 and 27th March, 2024. We further grant prayer Clause (c) by directing Respondent No.1 – Corporation to issue letter of appointment to the Petitioner on the basis of selection for the post of Deputy Chief Fire Officer on the basis

of eligibility criteria provided in the Recruitment Rules and subject advertisement issued by Respondent No.1 – Corporation inviting applications for the post of Deputy Chief Fire Officer, if otherwise found fit for the said post.

48. The Writ Petition is disposed of in the above terms. There shall be no order as to costs.

[ADVAIT M. SETHNA, J.]

[R.I. CHAGLA J.]