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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
J.K. MAHESHWARI; J., RAJESH BINDAL; J.
AUGUST 28th, 2025.

CIVIL APPEAL NOS. 4426-4466 OF 2023
PARTHA DAS & ORS. *versus* THE STATE OF TRIPURA & ORS.
CIVIL APPEAL NOS. 4473-4479 OF 2023
SUJAN ROY & ORS. *versus* THE STATE OF TRIPURA & ORS.

Tripura State Rifles Act, 1983 (TSR Act) - Tripura State Rifles (Recruitment) Rules, 1984 (TSR Rules) - Executive Instructions v. Statutory Rules – Held, Executive instructions cannot supplant statutory rules that already occupy the field - The recruitment for the post of Enrolled followers was governed by the Tripura State Rifles Act, 1983 and Rules, and the cancellation of the process through an executive memorandum was not permissible - State failed to prove that the existing recruitment process was unfair or non-transparent - The Court affirmed that ‘changing the rules after the game has begun’ is not permissible - The recruitment process was at an advanced stage, with interviews already conducted and the application of the new policy, which abolished interviews, was contrary to this principle - Appellants, having participated in and cleared various stages of the recruitment process, had a legitimate expectation that the process would be completed - The cancellation was arbitrary and not justified on the pretext of ‘larger public interest’ - The Court directed the respondents to finalize and complete the recruitment process as per the TSR Act and TSR Rules within 2 months - Executive instructions issued under Article 166(1) of the Constitution of India cannot override the act done under the Statute and the rules made thereunder - The Executive instructions can only supplement the act and rules through which recruitment process was carried out, but it cannot supplant the specific provisions which already occupy the field - Burden is on the State to justify the decision on the anvil of Articles 14 and 16 of Constitution and show how its decision was in furtherance of larger public interest - State has failed in discharging such burden - Appeal allowed. [Relied on *Sant ram Sharma v. State of Rajasthan* 1967 SCC OnLine SC 16; *A.B. Krishna and Ors. v. State of Karnataka and Ors.* 1998 3 SCC 495; *Paras* 31- 35, 42- 44, 47- 60]

For Appellant(s): Mr. Pallav Shishodia, Sr. Adv. Mr. Danish Zubair Khan, AOR Dr. Lokendra Malik, Adv. Mr. Ajit Pandey, Adv. Mr. R. Balasubramanian,, Sr. Adv. Mr. Shuvodeep Roy, AOR Mr. Deepayan Dutta, Adv. Mr. Saurabh Tripathi, Adv. Ms. Sanya Minhas, Adv. Mr. B. Venkatraman, Adv. Mr. Kundan Kumar Mishra, AOR Mr. Ratnesh Kumar, Adv. Mr. Vishal Prasad, AOR

For Respondent(s): Mr. R. Balasubramanian,, Sr. Adv. Mr. Shuvodeep Roy, AOR Mr. Deepayan Dutta, Adv. Mr. Saurabh Tripathi, Adv. Ms. Sanya Minhas, Adv. Mr. B. Venkatraman, Adv. Mr. P.V. Dinesh, Sr. Adv. Mr. Zulfiker Ali P. S, AOR Ms. Anna Oommen, Adv. Ms. Syed Nazarat Fatima, Adv. Mr. J. Karan Malhotra, Adv. Mr. Pranab Prakash, AOR

J U D G M E N T

J.K. Maheshwari J.

Questioning the validity of the judgment dated 03.10.2019 of the Division Bench of the High Court of Tripura commonly passed in a batch of writ petitions, two set of Civil Appeal Nos. 4426-4466 of 2023 and 4473-4479 of 2023 have been filed. The issue involved in these appeals relates to cancellation of the ongoing recruitment process of ‘Enrolled Followers’ midway on the pretext of a policy decision of the State Government.

2. The subject matter in dispute is appointment on the post of Enrolled Followers in Tripura State Rifles Battalions. In the State of Tripura, the recruitment of Enrolled Followers is governed by the Tripura State Rifles Act, 1983 (hereinafter referred to as “TSR Act”) read with the Tripura State Rifles (Recruitment) Rules, 1984 (hereinafter referred to as “TSR Rules”). For the sake of convenience, some pertinent provisions of the TSR Act, which govern the recruitment of Enrolled Followers, are referred.

2.1 Section 3(s) defines ‘the Rifles’ as Tripura State Rifles. Section 3(g) defines ‘Enrolled Followers’ as any person appointed to do the work of a cook, masalchi, water-carrier, mess-servant, ward-boy, washerman, cobbler, barber, sweeper, helper or cleaner. Section 4 specifies that the State Government shall constitute a force called Tripura State Rifles and Section 5 grants power to the Commandant to appoint Enrolled Followers. As per Section 9, the State Government is vested with the power of superintendence and control over Tripura State Rifles, and that its administration shall be done by the State Government as per the provisions of TSR Act and the rules made thereunder through Director General of Police, Inspector General or such Deputy Inspector General or other officers as the State Government may so appoint. Section 22 confers power on the State Government to make rules to carry out the purpose of the TSR Act. Thus, the TSR Act is a complete code in itself which provides for constitution of and recruitment in Tripura State Rifles and confers power on the State Government to frame rules.

3. In furtherance of the power under Section 22 of TSR Act, State Government enacted TSR Rules, wherein Rule 3 talks about powers of State Government and certain officers, i.e., Inspector General, the Deputy Inspector-General and Commandant of Tripura State Rifles. Further, it confers powers on Inspector General, the Deputy Inspector-General and Commandant to supervise and control Tripura State Rifles. Rule 6 categorises Tripura State Rifles into ranks wherein Enrolled Followers are defined at serial no. xii as non-gazetted, class-IV. Rule 8 prescribes the method of appointment of the members of the Rifles and the appointing authority. The said rule is relevant, therefore, reproduced hereunder:

“8. Method of appointment of the members of the Rifles:

(1) The members of the Rifles shall be appointed by one or more of the following methods(a) Direct recruitment;

(b) Promotion;

(c) Re-employment of ex-services or ex-Central Police Organization personnel; and

(d) Deputation or transfer of the personnel of Armed Forces of the Union or Central Police Organization or Police Organization of any State.

(2) 75% of direct recruitment in all ranks shall be made from within Tripura and the remaining 25% of such direct recruitment shall be made from states and Union Territories outside Tripura.

(3) The appointing authorities for members of the Rifles shall be as follows:

	<i>Sl. No.</i>	<i>Rank</i>	<i>Authority competent</i>
<i>(i)</i>	<i>Subedar</i>	<i>Inspector-General</i>	
<i>(ii)</i>	<i>Naib Subedar</i>	<i>Commandant</i>	
<i>(iii)</i>	<i>Havildar</i>	<i>Commandant</i>	
<i>(iv)</i>	<i>Naik</i>	<i>Commandant</i>	

- (v) *Lance Naik Commandant*
- (vi) *Riflemen Commandant*
- (vii) *Enrolled Followers Commandant*

4. The present matter relates to recruitment to the post of Enrolled Followers, for which Rule 24 is also relevant, the same is reproduced hereunder:

“24. Recruitment Rules for the Posts of Enrolled Followers:

Recruitment to the post of enrolled followers shall be made from amongst person who satisfy the following conditions, namely-

- (a) should be in the age group of 18-21 years as on 1st day of July of the year in which advertisement for recruitment is made;*
- (b) should possess good physique;*
- (c) should be able to read and write a simple passage in their mother tongue; and*
- (d) should have proficiency in the work for which they are to be engaged; and*
- (e) should pass such test as may be specified by the Inspector-General in writing.”*

5. As per Rule 24(e), it is the Inspector-General, who has the power to specify the tests to be undertaken for recruitment of the Enrolled Followers. However, on perusal of records, the Draft Recruitment Programmes finalised by the Chairman of both the Recruitment Boards and sent for approval to Police Head Quarters, Tripura (hereinafter referred to as “PHQ”), were approved by Director General of Police (Tripura State Rifles) (hereinafter referred to as “DGP”). When an explanation was sought from the learned counsel for the respondent-State, it was fairly stated that Inspector-General has been replaced by DGP *vide* the Tripura State Rifles (Second Amendment) Act, 2006. As such, the drafts sent by the Chairman of Recruitment Board are now being approved by DGP, specifying the lists which are to be cleared. Thus, the procedure as explained is having statutory backing.

FACTS RELEVANT FOR THE MATTER:

6. It is not in dispute, that as per Rule 8 of TSR Rules and *vide* communication of the PHQ, the recruitment process for total 506 vacancies of Enrolled Followers in the Tripura State Rifles was bifurcated in two categories – “inside-state quota” and “outsidestate quota”, specifying the number of posts for respective categories, which is the subject matter in this case.

Inside- State Quota

6.1. PHQ on 05.11.2014 sent a communication to the Government of Tripura (Home) Department (hereinafter referred to as “Home Department”) indicating the number of total vacancies of Enrolled Followers in Tripura State Rifles Battalions. The same was approved by the Home Department directing initiation of the recruitment process *vide* communication dated 30.07.2015. Pursuant to the same, on 14.03.2016, a draft proposal was sent by PHQ to the Home Department for constitution of a Recruitment Board. The Home Department approved the same on 18.06.2016. The Draft Recruitment Programme by Chairman of the Recruitment Board, was sent to PHQ for approval on 26.08.2016 and the same was approved by DGP and communicated to the Chairman on 07.09.2016. After the approval, the Chairman issued an advertisement on 09.09.2016 for filling up 372 vacancies of Enrolled Followers in the inside-state quota.

6.2. Subsequently, recruitment rallies were held from 24.09.2016 to 07.12.2016. The proceedings of recruitment were submitted to the PHQ on 23.04.2017 by the Recruitment Board. The same were forwarded to the Home Department by PHQ on 12.05.2017, for approval and for starting the process of character verification. The same were approved by Home Department for further course of action on 29.05.2017. On 09.06.2017, a communication was sent by the PHQ to the Commandant, 2nd Battalion, Tripura State Rifles to complete necessary steps towards issuing appointment offers.

Outside- State quota

6.3. PHQ on 05.11.2014 sent a communication to the Home Department indicating the number of total vacancies of Enrolled Followers in Tripura State Rifle Battalions. The same was approved by the Home Department directing to initiate the recruitment process *vide* communication dated 30.07.2015. Pursuant to the same, on 14.03.2016, a draft proposal was sent by the PHQ to the Home Department for constitution of a Recruitment Board. The Home Department approved the same on 18.06.2016. The Draft Recruitment Programme by Chairman of Recruitment Board was sent to PHQ for approval on 02.09.2016 and the same was approved by DGP and communicated to the Chairman on 08.09.2016. After the approval, the Chairman issued an advertisement on 14.09.2016 for filling up 134 vacancies of Enrolled Followers in the outside-state quota.

6.4. Subsequently, recruitment rallies were held from 23.10.2016 to 15.11.2016. The proceedings of recruitment were submitted to the PHQ on 20.12.2016 by the Recruitment Board. PHQ on 21.12.2016 forwarded the same to the Home Department for its necessary approval for starting the process of character verification. The same was approved by the Home Department for further course of action on 30.12.2016. On 09.06.2017, a communication was sent by the PHQ to the Commandant, 2nd Battalion, Tripura State Rifles to complete necessary steps towards issuing appointment offers.

7. The record pertaining to recruitment indicates that on 13.07.2017, the Commandant, 2nd Battalion, Tripura State Rifles requested for more time to complete the verification process of the prospective selectees in both quotas for which three months' time was granted by the DGP on 26.07.2017 with request to complete such process early. The Commandant, 2nd Battalion, Tripura State Rifles on 17.10.2017 requested PHQ to suspend issuance of offers of appointment until verification reports are received, with the intention to avoid any complicity, which was allowed because in process of verification some forged certificates were noticed. The PHQ forwarded this to the Secretary, LR & Law, Government of Tripura (hereinafter referred to as "Secretary, LR & Law"), who *vide* noting dated 31.10.2017 opined that appointment offers shall be issued only after completion of verification. In case of any delay, appointment offers could be issued excluding those cases where the verification report had not been received. This was further approved by the DGP on 15.11.2017.

8. That being so, during the ongoing recruitment process, the State of Tripura was occupied with the elections of Legislative Assembly. After the elections, new government was formed on 03.03.2018. On 14.03.2018, a memorandum no. F.20(1)GA(P&T)/18 (hereinafter referred to as "Abeyance Memorandum") was issued stating that for the purpose of reviewing the recruitment process, all the ongoing recruitment by all the departments/autonomous bodies under Government shall be kept in abeyance until further orders. As a consequence of this, the recruitment process in the present case came to a halt. The said notification is quoted hereinbelow:

"NO. F.20(1)-GA(P&T)/18

GOVERNMENT OF TRIPURA

GENERAL ADMINISTRATION (PERSONNEL & TRAINING) DEPARTMENT

Dated, Agartala, the 14th March 2018. M E M O R A N D U M

Sub: - Recruitment/selection process in all Department kept in abeyance.

The undersigned is directed to state that the State Government has decided that the recruitment process of the Government shall be reviewed and pending such review, all the ongoing recruitment/selection processes in Departments/ autonomous bodies etc. under the Government, shall be kept in abeyance with immediate effect. However, the recruitment process initiated on the directions of Hon'ble Supreme Court/High Court or any other court within the State shall not be stopped without obtaining specific orders from the concerned court in this regard.

2. All Departments/ Heads of Departments, Autonomous bodies are, therefore, requested to comply the same and make necessary arrangement for further circulation of the aforesaid instruction to their subordinate offices also for necessary compliance.

Sd/-

(Santosh Das)

Additional Secretary to the
Government of Tripura

9. On 05.06.2018, the State Government vide notification no. F-20(1)-GA(P&T)/18, issued a new recruitment policy (hereinafter referred to as "NRP") applicable to all the establishments under administrative control of the State Government. For ready reference, the same is reproduced hereunder:

"Subject: New Recruitment Policy for all establishments under administrative control of the Government of Tripura.

In supersession of all earlier instructions in connection with selection/recruitment of different categories of candidates by direct recruitment for government employment under the administrative control of Government of Tripura, the State Government has decided the following principles: -

1. Written test should be the primary means to test suitability of candidates for Government Jobs. The test should be designed in such a manner that the required skills and competencies can be tested in an online mode. For such posts where special skills are required, separate proficiency/ personality test may be taken in a transparent manner.

1.2. Interview should be completely abolished for Group-D posts, however soft skill test may be taken.

1.3. Interview should ordinarily, not be taken for B and C category of posts. However, only in exceptional circumstances, for certain categories of Group B and C posts, where justification is given by the Department concerned, provision for interview/ skill test may be kept with prior approval of the Cabinet. Further, wherever such a provision is kept, the weightage for interview/ skill test should not exceed 10% of total marks and the interview should be video graphed.

1.4. The Group A, Group-B and C posts which are at present covered by TPSC will continue to be filled as per the existing practice. However, weightage for the interview should not exceed 10% of total marks. In exceptional case weightage of interview may be increased beyond 10% with the approval of cabinet, if sufficient justification exists.

1.5. There are certain Group-A posts, which are at present outside the purview of TPSC. For the time being, this system may continue subject to the condition that the processes shall be made more fair, open and transparent. Adequate changes shall be made in the recruitment process/rules for these posts so that selection is done on the basis of written exam followed by

interview with weightage of latter not being more than 10%. Further, review should be taken up by the concerned Departments to narrow down this category so that over a period of time, as far as practicable, all such posts are filled through recruitment conducted by TPSC.

1.6. Keeping in view the need to have a highly professional cadre at higher positions in the Government, recruitment for the left over (remaining Group-B) posts should also be taken up by TPSC.

1.7. The posts in Police, Fire Service and Jail Department which are currently outside the purview of TPSC should be filled by the respective Departments subject to the overall principles proposed at Para -1.1, 1.2 and 1.3 above.

1.8. There is a need to revise existing Recruitment Rules (RRs) such that there is proper mapping/correlation between the qualification, competencies and job profile. Further, in such cases where there is similarity in the nature of jobs or jobs are common across various Departments, the RRs have to be suitably revised to bring in a greater degree of uniformity so as to facilitate common recruitment as far as practicable.

1.9. For the posts where there is intake by both direct recruitment and promotion, the intake ratio from each stream (direct and promotion) should, to the extent possible, be kept uniform across all the Departments.

1.10. The role of TPSC may be expanded and suitable manpower and resources may be placed at its disposal to enable it to ensure recruitment following the recruitment principles mentioned above.

1.11. A new institution may be set up which may take up the recruitments for all Group-B, C and D posts, excluding the posts covered in Para 1.4 above. This body may function within the broad principles proposed at Para 1.1, 1.2 and 1.3. For this, further follow up action may be taken by GA (P&T) Department.

2. All the above recommendations will be applicable with the prospective effect only.

3. The Revised General Employment Guidelines for all Departments of the State Government for selection of candidates by open interview for Group-C and Group-D posts to be filled up by direct recruitment issued vide Memorandum No.F.23(8)-GA(P&T)/14 dated 23rd July, 2016 is hereby repealed and replaced by this Notification.

By the order of the Governor

Sd/-

(Santosh Das)

Additional Secretary to the Government of Tripura.”

10. With respect to the said policy, the State Government vide memorandum no. F.20(1)-GA(P&T)/18 dated 20.08.2018 decided to make all new appointments under NRP, and all the existing recruitment processes initiated by the respective departments were directed to be cancelled (hereinafter referred to as “Cancellation Memorandum”). The said Cancellation Memorandum as challenged is reproduced hereunder:

“NO.F. 20(1)-GA(P&T)/18

GOVERNMENT OF TRIPURA

GENERAL ADMINISTRATION (PERSONNEL & TRAINING)

DEPARTMENT

Dated, Agartala, the 20th August, 2018

M E M O R A N D U M

Subject: Recruitment/Selection process as per New Recruitment Policy.

Attention is invited to this Department's Memorandum of even number dated 14.03.2018 wherein all the recruitment/selection processes were kept in abeyance w.e.f. 14.03.2018 until further orders.

- 2. The State Government has now notified a New Recruitment Policy vide this Department's Notification of even number dated 05.06.2018. Accordingly, the Memorandum issued vide No. F.20(1)GA(P&T)/18 dated 14.03.2018 now stands superseded.*
- 3. The competent authority in the State Government has decided that in view of the New Recruitment Policy approved by the Government, all new appointments should be made as per the New Recruitment Policy and all existing recruitment processes initiated by the respective Departments or the TPSC, hereby, stand cancelled excepting ongoing recruitment of Tripura Judicial Service Grade-III only for which specific exemption has been accorded in consultation with the Hon'ble High Court of Tripura.*
- 4. As regards the candidates who had participated in the cancelled recruitment processes, they are to be given one time relaxation in upper age limit to enable them to participate once in the fresh recruitment process subject to providing documentary evidence of their participation in the earlier recruitment processes for the same post(s).*
- 5. It is also directed that henceforth, all direct recruitment should be made strictly as per guidelines contained in the New Recruitment Policy issued vide Notification No.F.20(1)-GA(P&T)/18 dated 05.06.2018 together with prior concurrence of the Finance Department, the GA(P&T) Department and the approval of the Council of Ministers.*
- 6. All Departments are, therefore, advised to strictly comply with these decisions.*

Sd/-

(Vishwasree B)

Joint Secretary to the Government of Tripura

Aggrieved by such cancellation, multiple writ petitions were filed before High Court challenging Abeyance and Cancellation Memorandums, and seeking direction for completion of the ongoing recruitment process.

FINDINGS OF HIGH COURT IN THE IMPUGNED JUDGMENT:

11. By a common impugned judgment dated 03.10.2019, High Court dismissed all the writ petitions. While dismissing, the Court noted the change in the political dispensation in the State after elections. The new government had taken a policy decision to keep all the ongoing recruitment processes in abeyance, following which NRP was notified, which led to issuance of the Cancellation Memorandum. The High Court, while referring to the TSR Act and TSR Rules, observed that the administrative instructions cannot prevail over statutory rules. It further observed that neither the NRP nor the Cancellation Memorandum has overriding effect over the statutory rules nor the government had any intention to do so, because to bring any change, rules have to be reframed to bring them in sync with the policy decision.

12. In the latter part of the judgement, it was observed that NRP was introduced by the State Government to bring more transparency and fairness in the process of recruitment in larger public interest and to bring greater uniformity. In such situation, the Court observed that interference in the policy decision of the State is not warranted. Further, it was said that the present case does not attract principles of promissory estoppel and legitimate expectation as claimed by the appellants. It was also observed that mere completion of process of selection to the post of Enrolled Followers does not confer any indefeasible right of appointment on the appellants. As such, it was concluded that

interjection in the ongoing recruitment process was not because of the change of the government or political dispensation, but due to change of policy in larger public interest.

13. Some of the writ petitioners had filed these appeals challenging the judgment of the High Court while some of the appellants who were affected by the impugned judgment sought permission to challenge the same as such these appeals assailing the judgment of the High Court have been heard together.

CONTENTIONS OF THE APPELLANTS AND RESPONDENTS:

14. Learned senior counsel, Mr. Pallav Shishodia has vehemently argued and submitted that appellants had applied for the post of Enrolled Followers and participated in the selection process. On completion of the selection process, they were granted tokens and called to concerned police stations for character verification. The said recruitment process was undertaken as specified by TSR Act and TSR Rules. Thus, cancelling such process of selection in the wake of NRP, without amending the TSR Act and TSR Rules, is not based on valid statutory backing which is arbitrary and illegal. It was submitted that once a recruitment process begins, it cannot be changed midway by executive instructions, i.e., by bringing the NRP and issuing the Cancellation Memorandum for ongoing recruitment process. In support of his contentions, reliance has been placed on the Constitution Bench judgment of this Court in *Tej Prakash Pathak and Others vs. Rajasthan High Court and Others*¹. It was also submitted, that as per Clause (2) of NRP, its applicability is prospective hence it cannot be made applicable on the pending recruitment processes.

15. It was also contended that once a recruitment process is in progress in terms of the relevant statute, no policy decision can stall and/or cancel the process of recruitment. In the facts of this case, when selection process was completed, and appellants were selected provisionally, they have a legitimate expectation of appointment, which is not against the public policy. To buttress the said contention, reliance has been placed on the Constitution Bench judgment of this Court in *Sivanandan C.T. and Others vs. High Court of Kerala and Others*².

16. In view of the foregoing, appellants submit that Abeyance Memorandum dated 14.03.2018 and Cancellation Memorandum dated 20.08.2018 be quashed and direction be issued to complete the recruitment process within a time frame.

17. Per contra, learned senior counsel, Col. R. Balasubramanian appearing for the State has vociferously contended that High Court has rightly dismissed the writ petitions giving cogent reasons. It is not disputed by the State that the process of recruitment for the post of Enrolled Followers was conducted in accordance with TSR Act and TSR Rules. In the meantime, new government was formed, which issued Abeyance Memorandum and subsequently, cancelled the ongoing recruitment processes *vide* Cancellation Memorandum which was in larger public interest.

18. It was contended that the decision to cancel the ongoing recruitment process was taken consciously relying upon the NRP, which was well within the competence of the State. The decision was taken with the intention to bring more transparency and fairness in the process of selection. It was further contended that recruitment process was still ongoing as no final merit list was published. Thus, mere participation in the recruitment process will not confer any indefeasible right of appointment on the appellants. Further,

¹ (2025) 2 SCC 1, 2024 INSC 847.

² (2024) 3 SCC 799, 2023 INSC 709.

there can be no legitimate expectation in their favour. In support of their contention, reliance has been placed on the Constitution Bench judgment of this Court in the case of *Shankarsan Dash vs. Union of India*³.

19. Learned senior counsel also contended that Clause (2) of NRP has been wrongly interpreted by the appellants. The intent of Clause (2) of NRP was for the policy not to apply to those recruitments which have been completed prior to the issuance of NRP. In the present case, as the recruitment process was still ongoing, NRP will apply. It is therefore submitted that the High Court has rightly dismissed the writ petitions and no interference is warranted by this Court.

ISSUES FOR CONSIDERATION:

20. After hearing learned counsel for the parties at length and on perusal of the facts and material placed on record, the following issues arise for consideration:

(1) *Whether the Abeyance Memorandum dated 14.03.2018 and Cancellation Memorandum dated 20.08.2018 purportedly issued in the wake of change of policy of the State in larger public interest, under the executive instructions, and in consequence, the cancellation of recruitment process as specified in TSR Act and TSR Rules for the post of Enrolled Followers after preparation of the provisional selection list, is justified and has any sanction of law?*

(2) *Whether the State's decision to apply NRP to the ongoing recruitment process of Enrolled Followers under the pretext of the Cancellation Memorandum would amount to changing the rules of the game after the game has begun, i.e., the recruitment process has commenced?*

(3) *Whether in the context of this case, the principle of legitimate expectation is attracted; and in the facts, what relief can be granted?*

ANALYSIS OF ISSUE NOS. 1 AND 2:

Issue nos. 1 and 2 posed above are interlinked, hence, the contentions are being appreciated and answered collectively.

21. The dispute in the present case revolves around the challenge to Abeyance Memorandum dated 14.03.2018, and Cancellation Memorandum dated 20.08.2018 pursuant to the decision to apply NRP in the ongoing recruitment process for Enrolled Followers in Tripura State Rifles. The pertinent factual backdrop leading to the said decision needs to be referred.

22. The Council of Ministers in exercise of powers under Rule 20(2) of the Rules of Executive Business of the Government of the State of Tripura, 1972 (hereinafter referred to as "Rules of Executive Business"), on 10.03.2018, decided that the recruitment process is required to be reviewed and pending such review, all ongoing recruitment / selection processes in all Departments / autonomous bodies etc. under the control of Government shall be kept in abeyance. In pursuance of the said decision of the Cabinet, the Abeyance Memorandum dated 14.03.2018 was issued by the General Administration (Personnel & Training) Department, under the signature of the Additional Secretary to the Government of Tripura.

23. While process of review was undertaken, the Review Committee recommended that interviews for Group-D posts should be completely abolished. The Review Committee

³ (1991) 3 SCC 47, 1991 INSC 120.

pertinently made the recommendation that recruitment rules need to be amended / revised in order to bring about uniformity in posts and to facilitate common recruitment. In consequence, NRP dated 05.06.2018 was notified for and on behalf of the Governor of the State, styled as 'New Recruitment Policy for all establishments under administrative control of the Government of Tripura'.

24. On 02.08.2018, in a meeting of the Council of Ministers, in furtherance to the publication of NRP, it was decided that all existing recruitment processes (except for Tripura Judicial Service) whether undertaken by the Tripura Public Service Commission or the respective departments, will be cancelled and all new appointments shall be made as per NRP providing the age relaxation to the participants of the ongoing recruitment processes. The decision of the Council of Ministers dated 02.08.2018 fructified in the form of Cancellation Memorandum dated 20.08.2018, whereby the ongoing recruitment processes were cancelled in the above terms.

25. The meeting of the Council of Ministers dated 10.03.2018, which is the inception of the series of events detailed above was conducted under the Rules of Executive Business framed in exercise of the powers conferred under Article 166(2) and 166(3) of the Constitution of India. As per the Second Schedule of the said Rules read with Rules 8, 14 and 31, proposals for making or amending rules regulating the recruitment and conditions of service of persons appointed to the public service and posts in connection with the State and proposals involving any important change of policy or practice, are to be brought before the Council of Ministers.

26. From the above conspectus, we can safely conclude that the NRP dated 05.06.2018 is an executive instruction of the State issued under Article 166(1) of the Constitution of India, following the meeting of the Council of Ministers. It was in the nature of a general policy decision to bring about a change in recruitment process of the State. It did not have a statutory and legislative backing, rather it was a decision taken solely in the exercise of the power vested in the executive. As such, Abeyance Memorandum and Cancellation Memorandum are also issued in exercise of the executive power of the State by issuing executive orders.

Status of the recruitment process of enrolled followers

27. The present appeals concern two categories of candidates, i.e., citizens within Tripura and residents of other states. For both, two separate advertisements were issued and recruitment processes were undertaken separately, although they were for the same post of Enrolled Followers in Tripura State Rifles. We have examined the voluminous record and documents supplied by the Respondent pertaining to both the advertisements and as discussed in paras 6.1 to 6.4 and 7 of this judgment, without an iota of doubt it can be said that in both the recruitment processes, selection lists were prepared and significant progress was made up to the stage of character verification which was in process.

28. In the recruitment for inside-state candidates for the citizens within Tripura, advertisement was issued on 09.09.2016. Various recruitment rallies were conducted all across Tripura on various dates between 24.09.2016 to 07.12.2016. During the said recruitment rallies, candidates having required physical standards as well as other eligibility criteria, were put through a physical / endurance test. Qualified candidates in the physical test were allowed to sit for a written test, and those candidates who had qualified both the physical / endurance test and written test were then allowed to appear for a 'viva - voce'. In total, 2,388 candidates of the inside-state quota participated in recruitment

process, out of which 1,696 candidates were found to be qualified after completion of the physical test, written test and viva-voce. Out of the combined merit list of 1,696 candidates, the Board recommended only for filling up 350 vacant posts.

29. In the recruitment for outside-state quota candidates, advertisement was issued on 14.09.2016, recruitment rallies were conducted between 23.10.2016 to 15.11.2016 in Kotdwar (North India), Ranchi (Central India) and Vishakhapatnam (Vizag) (South India) on different dates. During the said recruitment rallies, candidates having required physical standards as well as other eligibility criteria, were put through a physical / endurance test. Qualified candidates in the physical test were allowed to sit for a written test and those candidates who had qualified both the physical / endurance test and the written test were allowed to appear for a 'viva-voce'. In total, 1,429 candidates were preliminarily shortlisted at the recruitment rallies, where 372 candidates were qualified after completing the physical test, written test and viva voce. Out of the combined merit list of 372 candidates, the Board recommended only for filling up 134 vacant posts, and the remaining 238 candidates were recommended to be kept on a panel list / waiting list.

30. As such, it is needless to say, the process of recruitment was not at a nascent stage. Much prior to the issuance of Abeyance Memorandum dated 14.03.2018, NRP dated 05.06.2018 and Cancellation Memorandum dated 20.08.2018, the recruitment process for the post of Enrolled Followers either inside-state quota or outside-state quota in Tripura State Rifles had reached the stage of preparation of the final merit list after completion of the recruitment process as specified.

Statutory Rules vs. Executive Order

31. At this juncture, it is pertinent to note that the recruitment for the post of Enrolled Followers in Tripura State Rifles was carried out under TSR Act and TSR Rules. The relevant provisions have already been discussed in the factual part in paras 2, 3, 4 and 5 of this judgement. The said facts have not been disputed by the Respondents in their counter affidavit.

32. Under TSR Act read with TSR Rule 24(e), the mandate is for the candidate to pass such test as may be specified by the DGP in writing. In respect of the advertisement for inside-state candidates, the DGP accorded his approval for a 'physical test, written test and viva voce' on 07.09.2016, whereas for outsidestate candidates, approval was accorded for 'physical test, written test, practical, interview' on 08.09.2016. Such a stipulation was plainly reflected in both advertisements, and after commencement of the recruitment process, it was carried out keeping in mind the stipulation in the TSR Rules.

33. As per Cancellation Memorandum dated 20.08.2018, the reasoning for cancellation of ongoing recruitment processes was to implement NRP, and in particular, in the context of the present two advertisements, to completely abolish interviews in the recruitment for Group-D posts. As such, the ancillary question which arises for our consideration is whether a policy decision in general, notified by way of executive instructions, can override the mandate of TSR Act and TSR Rules.

34. While appreciating the said question it is to be recorded that the recruitment for the post of Enrolled Followers, within the inside State quota or outside State quota, was at the verge of completion. Undisputedly, it is not rebutted by the Government that the said process was not carried out under TSR Act and TSR Rules, or that the character verification of the candidates who found place in the panel, had not been initiated. From the record, it reveals that the appointment orders were to be issued subject to verification of the documents. In the meantime, legislative assembly elections were notified and after

elections there was a change in the political landscape of the State. Immediately upon assuming the functioning of the government by the new political dispensation, a decision to review the recruitment process of all departments was taken on the pretext of making the process more fair, open and transparent. From the record of the selection or as per averments in the counter affidavit, nothing can be elucidated as to why the existing process of selection was not fair and transparent. For the recruitment to the post of Enrolled Followers, the process undertaken was as per the provisions of TSR Act and TSR Rules framed thereunder, having statutory backing. It is not contended in the counter affidavit that the pending recruitment process for Enrolled Followers, has in any manner violated the provisions of the TSR Act and/or TSR Rules, and was not transparent or unfair in any manner. In the said context, it can safely be observed that if recruitment process was carried out as per the TSR Act and TSR Rules framed thereunder, deviation was not permitted by way of executive instructions in the wake of policy decision of the government, otherwise it would amount to overriding the recruitment process carried out under the aforesaid Act and Rules by means of executive instructions. For clarity, it is to be observed that where the subject and the field is occupied by the statute and the rules, the executive instructions cannot supplant the same; they can only supplement, otherwise it would render the act done under the statute to be void. It cannot be lost sight of the fact that Enrolled Followers is a Class-IV (Group-D) post and as per policy decision of NRP, interview for Class-IV (Group-D) post is to be completely abolished. However, no such amendment to that effect has been brought either in the statute and/or in the rules yet. Under such circumstances, merely because of a new recruitment policy, the recruitment process under the Act and Rules cannot be cancelled.

35. This Court has had the occasion to examine similar legal issue in multiple cases. The Constitution Bench in *Sant Ram Sharma vs. State of Rajasthan*⁴, while dealing with an office memorandum of the Central Government in respect of promotion under the All India Services Act, 1951 and the Indian Police Service (Fixation of Seniority) Rules, 1954, held:

“7. We proceed to consider the next contention of Mr N.C. Chatterjee that in the absence of any statutory rules governing promotions to selection grade posts the Government cannot issue administrative instructions and such administrative instructions cannot impose any restrictions not found in the Rules already framed. We are unable to accept this argument as correct. It is true that there is no specific provision in the Rules laying down the principle of promotion of junior or senior grade officers to selection grade posts. But that does not mean that till statutory rules are framed in this behalf the Government cannot issue administrative instructions regarding the principle to be followed in promotions of the officers concerned to selection grade posts. It is true that Government cannot amend or supersede statutory rules by administrative instructions, but if the rules are silent on any particular point Government can fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed.”

36. This Court in the case of *A.B. Krishna and Ors. vs. State of Karnataka and Ors.*⁵, observed as under:

“8. The Fire Services under the State Government were created and established under the Fire Force Act, 1964 made by the State Legislature. It was in exercise of the power conferred under Section 39 of the Act that the State Government made Service Rules regulating the conditions of the Fire Services. Since the Fire Services had been specially established under an Act of the legislature and the Government, in pursuance of the power conferred upon it under that Act, has

⁴ 1967 SCC OnLine SC 16, 1967 INSC 167.

⁵ (1998) 3 SCC 495, 1998 INSC 22.

already made Service Rules, any amendment in the Karnataka Civil Services (General Recruitment) Rules, 1977 would not affect the special provisions Validly made for the Fire Services. As a matter of fact, under the scheme of Article 309 of the Constitution, once a legislature intervenes to enact a law regulating the conditions of service, the power of the Executive, including the President or the Governor, as the case may be, is totally displaced on the principle of “doctrine of occupied field”. If, however, any matter is not touched by that enactment, it will be competent for the Executive to either issue executive instructions or to make a rule under Article 309 in respect of that matter.”

37. In Jaiveer Singh and Ors. vs. State of Uttarakhand and Ors.⁶, while deciding a similar legal issue, this Court observed as follows:

“49. It can thus be seen that it is a trite law that the Government cannot amend or supersede statutory rules by administrative instructions, but if the rules are silent on any particular point, it can fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed. It is a settled proposition of law that an authority cannot issue orders/office memorandum/executive instructions in contravention of the statutory rules. However, instructions can be issued only to supplement the statutory rules but not to supplant it.”

38. In Bank of Baroda and Another vs. G. Palani and Others⁷ where an executive instruction by the name of ‘joint note’ was issued to change pensionary benefits provided to the employees under Banking Companies Act, 1970 and Regulations of 1995 made u/s 19 of the Act, it was held that such an executive instruction cannot supplant the provisions of the statute. The relevant paragraph is reproduced below as thus:

“14. First we come to the rigour of the regulations, The regulations have statutory force, having framed in exercise of the powers under section 19(2)(f) of the 1970 Act and are binding. They could not have been supplanted by any executive fiat, order or joint note, which has no statutory basis. The joint note of the officers also had no statutory force behind it and could not have obliterated any of the provisions of 1970 act or the existing regulations. Thus, joint notes could not have taken away the rights that were available under the 1995 pension regulations to the officer.”

39. Recently, in R. Ranjith Singh and Others vs. State of Tamil Nadu and Others⁸, service rules were framed under the relevant state Act and Article 309 of the Constitution of India and various government orders were issued by the State without amending the relevant rules to give 20% reservation to in-service candidates in direct recruitment posts and for maintenance of their seniority. It was held by this Court that the government orders had the effect of supplanting the statutory rules instead of supplementing them, which is not permissible. This Court noted as follows:

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....The State Government has certainly issued various executive directions from time to time for appointment under the direct recruitment quota providing reservation to in-service candidates to the extent of 20%; however, the rules were never amended till 21.11.2017. It is a well settled proposition of law that executive instructions cannot supplant the statutory rules. They can supplement/clarify the statutory rules. In the present case, the executive instructions issued from time to time have in fact supplanted the statutory rules and such a process is unheard of in the field of service jurisprudence.”

40. Applying the above principles of law, it can safely be concluded that executive instructions issued under Article 166(1) of the Constitution of India cannot override the act

⁶ 2023 SCC OnLine SC 1584, 2023 INSC 1024.

⁷ (2022) 5 SCC 612.

⁸ 2025 SCC OnLine SC 1009, 2025 INSC 612.

done under the statute and the rules made thereunder. The executive instructions can only supplement the provisions of the act and the rules in case of any ambiguity or if gaps are to be filled but such executive instructions cannot supplant the specific provisions which already occupy the field. It is not the case of the government that to fill the gaps and to supplement the TSR Act and TSR Rules, the NRP is relevant, therefore, Abeyance Memorandum or Cancellation Memorandum may be upheld. In absence of the same, in our view, the action of the government in cancelling the process of recruitment for the post of Enrolled Followers is not justified and would amount to arbitrary exercise of power.

41. It is further relevant to discuss that the pretext which has been taken to issue Cancellation Memorandum is NRP dated 05.06.2018. The said policy is based on the recommendation of the three-members review committee constituted by the State Government to review recruitment policy across the State and all its departments. The recommendations of the committee were plain and specific, inter-alia, observing that “all the above recommendations will be applicable with prospective effect only”. In addition to the discussions as made hereinabove, in absence of the statutory backing behind the policy, the recommendations as made for abolition of the interview of Class-IV (Group-D) posts would apply with prospective date only. Meaning thereby, it would not apply to the process of recruitment of Enrolled Followers, for whom, the interviews have already been conducted. Hence, application of NRP on the pending recruitment process is contrary to clause (2) of the said policy.

Plea of Larger Public Interest

42. It is vehemently argued that the recruitment process was kept in abeyance and later cancelled based on NRP which was a bona fide decision by the Government in larger public interest. In support of the said contention, in the Counter Affidavit, it is said that the decision of the State shall be of benefit in the long run, because qualified candidates shall be recruited on merit, which may enhance overall efficiency of administration in the State.

43. Apart from this, there is no mention even in the NRP as to how larger public interest can be achieved by abolition of interviews for Group-D posts such as Enrolled Followers. It is difficult to see how such larger public interest can be achieved in the present context specifically where the recruitment process for Enrolled Followers was at a significantly advanced stage and interviews had already been conducted.

44. The Constitution bench judgement of this Court in *Tej Prakash Pathak* (Supra) has noted the importance of interviews in a recruitment process to assess the suitability of a candidate. The relevant portion of the said judgement is reproduced below as thus: -

“49. The ultimate object of any process of selection for entry into a public service is to secure the best and the most suitable person for the job, avoiding patronage and favouritism. Selection based on merit, tested impartially and objectively, is the essential foundation of any useful and efficient public service. So, open competitive examination has come to be accepted almost universally as the gateway to public services. [Lila Dhar v. State of Rajasthan, (1981) 4 SCC 159, para 4 : 1981 SCC (L&S) 588] It is now well settled that while a written examination assesses a candidate's knowledge and intellectual ability, an interview test is valuable to assess a candidate's overall intellectual and personal qualities.

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51. What is clear from above is that the object of any process of selection for entry into a public service is to ensure that a person most suitable for the post is selected. What is suitable for one post may not be for the other. Thus, a degree of discretion is necessary to be left to the employer to devise its method/procedure to select a candidate most suitable for the post albeit subject to

the overarching principles enshrined in Articles 14 and 16 of the Constitution as also the rules/statute governing service and reservation.”

45. It goes without saying that certain level of discretion must be given to the State but merely suggesting that a decision to keep an ongoing recruitment process in abeyance and its subsequent cancellation was in the larger public interest, is not sufficient. The burden is on the State to justify the decision on the anvil of Articles 14 and 16 of the Constitution of India and show how its decision was in furtherance of larger public interest.

46. In our considered opinion, the State has miserably failed in discharging such burden, and in the facts and circumstances of this case, we are unable to agree with the contention of the State that the decision to keep the ongoing recruitment process in abeyance and its subsequent cancellation was in the larger public interest.

Change of rules of the game after the game has begun

47. The recruitment process under the two advertisements commenced on the date of their respective issuance. At the cost of repetition and as discussed above, much water had flown after such commencement. The State had taken active and tangible steps such as constituting the Recruitment Board, setting up different State teams for recruitment rallies which were conducted all across India, candidates were tested physically, in a written exam and orally through an interview. A provisional merit list was purportedly prepared in pursuance of the recruitment process. After all this, Cancellation Memorandum was issued on 20.08.2018 which was general in nature, effectively setting the clock back and putting the entire process at nought.

48. The reasoning behind the said cancellation, as suggested by the State of Tripura, is that it was decided by the Government that not only future recruitment, but also ongoing recruitment processes must invariably be governed by the NRP. In the context of the present case, the marked difference which would be brought about by the NRP is that interview cannot be conducted as a part of the procedure for recruitment given that the post of ‘Enrolled Follower’ is a Group-D post, even though the stage of taking interviews is already over in the present case.

49. This Court in *Tej Prakash Pathak* (Supra) has affirmed the decision in *K. Manjusree vs. State of A.P. and Another*⁹, and held that the recruitment authority can devise a procedure for selection only in absence of rules to the contrary, however, the same should be done prior to commencement of the recruitment process. It has been held that if benchmarks are to be laid down in different steps of the recruitment process, they cannot be laid down after the completion of that particular step, when the game has already been played. The relevant portion of the said judgement is reproduced below as thus: -

“52. Thus, in our view, the appointing authority/recruiting authority/competent authority, in absence of rules to the contrary, can devise a procedure for selection of a candidate suitable to the post and while doing so it may also set benchmarks for different stages of the recruitment process including written examination and interview. However, if any such benchmark is set, the same should be stipulated before the commencement of the recruitment process. But if the extant Rules or the advertisement inviting applications empower the competent authority to set benchmarks at different stages of the recruitment process, then such benchmarks may be set any time before that stage is reached so that neither the candidate nor the evaluator/examiner/interviewer is taken by surprise.

⁹ (2008) 3 SCC 512, 2008 INSC 195.

53. The decision in *K. Manjusree* [*K. Manjusree v. State of A.P.*, (2008) 3 SCC 512 : (2008) 1 SCC (L&S) 841] does not proscribe setting of benchmarks for various stages of the recruitment process but mandates that it should not be set after the stage is over, in other words after the game has already been played. This view is in consonance with the rule against arbitrariness enshrined in Article 14 of the Constitution and meets the legitimate expectation of the candidates as also the requirement of transparency in recruitment to public services and thereby obviates malpractices in preparation of select list.”

50. In the present case, not only benchmarks are being set after the game has been played, rather the State has decided that a portion of the game itself, the step of interview, should not have been played at all. As discussed above, in pursuance of Rule 24(e) of the TSR Rules, the DGP had approved interview as one of the tests required to be passed. Thereafter, candidates participated in interviews and were ranked accordingly. It can be said that the stage of interview was over much prior to the issuance of the Cancellation Memorandum.

51. The Constitution bench in *Tej Prakash Pathak* (Supra) has also clarified that the procedure prescribed in the extant rules cannot be violated and administrative instructions can only be used to supplement and fill the gap in the Rules; they cannot be used to supplant the Rules completely, as has been done in the present case. These administrative instructions, in any case, cannot be diametrically opposite to what the Rules provide. The relevant portion of the said judgement is reproduced below as thus: -

“62. There can therefore be no doubt that where there are no rules or the rules are silent on the subject, administrative instructions may be issued to supplement and fill in the gaps in the rules. In that event administrative instructions would govern the field provided they are not ultra vires the provisions of the rules or the statute or the Constitution. But where the rules expressly or impliedly cover the field, the recruiting body would have to abide by the rules.”

52. In the present case, on the strength of a general policy decision of the State, an ongoing recruitment process was first put in abeyance and then cancelled, it has been derailed with the intention to implement NRP when the recruitment has already reached the stage of preparation of the merit list. The very application of NRP to the ongoing process is illegal on three counts – firstly, because it is an executive instruction and in the absence of an amendment in the TSR Act and TSR Rules, the recruitment procedure could not have been changed. Secondly, because the application of NRP to the ongoing recruitment process would amount to changing the rules of the game after the game has already begun, i.e. recruitment process has commenced. Thirdly, as per clause (2) of NRP, the recommendation to abolish interviews for Group-D posts would only apply prospectively and it would not mean to apply in the recruitment process wherein the interview has already taken place. In view of the conclusions drawn as above, Issue Nos. 1 and 2 are answered in the above terms.

ISSUE NO. 3

Legitimate expectation and indefeasible right

53. Another aspect of the matter is the question as to whether any absolute right of appointment has accrued in favour of the appellants by participating in the recruitment process after completion of the recruitment rallies and when a provisional merit list has been prepared, or if they have a legitimate expectation to be recruited having participated in the process. If so, whether cancellation of the recruitment process would impinge upon such legitimate expectation.

54. On the said issue, the State has placed heavy reliance on the judgement in *Shankarsan Dash* (Supra) to argue that mere participation in the selection process or even placement on the select list would not create an indefeasible right for appointment in favour of the appellants. On the other side, the appellants have placed reliance on *Sivanandan C.T.* (Supra) to argue that they have a legitimate expectation to be appointed after having participated in the recruitment process.

55. It is trite law, and no contest can be made in respect of the settled proposition that mere participation in the recruitment process or placement in a select list would not create an indefeasible right to be appointed, even if vacancies are available. The judgement in *Shankarsan Dash* (Supra) has been followed subsequently in a plethora of decisions of this Court. The relevant portion of the said judgment is quoted hereinafter:

“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 license 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.”

56. It is clear from a plain reading of the above judgement that State may choose not to appoint a person who has been placed on the select list. This was the specific decision of this Court also in *State of Haryana vs. Subash Chander Marwaha and Others*¹⁰, subsequently clarified in *Tej Prakash Pathak* (Supra) where a select list of 40 candidates was drawn up, but against 15 vacancies available, only 7 appointments were made. In that context, it was held that mere placement on the select list would not create an obligation for the State to fill up all the vacancies and make appointments, since no indefeasible right of appointment has accrued in favour of the candidates. Simultaneously, it goes without saying that the action of the State should not be arbitrary and decision taken for not filling the vacancies must be bona fide.

57. However, the candidates who have taken part in a recruitment process conducted by a public authority have a legitimate expectation that the selection process will be conducted fairly and without arbitrariness. Consistency and predictability are important aspects of non-arbitrariness, and the rule of law obligates the State to only take decisions which are rooted in fairness and equality. It was held in *Sivanandan CT* (Supra) and later clarified in *Tej Prakash Pathak* (Supra) that in order to frustrate the legitimate expectation of candidates the burden is on the State by placing relevant material to objectively demonstrate that the decision taken by it was in the larger public interest and not arbitrary. Relevant excerpts from the Constitution bench decision in *Sivanandan CT* are quoted below:

*“40. The principle of fairness in action requires that public authorities be held accountable for their representations, since the State has a profound impact on the lives of citizens. Good administration requires public authorities to act in a predicable manner and honour the promises made or practices established unless there is a good reason not to do so. In *Nadarajah [R. (Nadarajah) v. Secy. of State for the Home Deptt., 2005 EWCA Civ 1363]*, Laws, L.J. held that the public authority should objectively justify that there is an overriding public interest in denying*

¹⁰ (1974) 3 SCC 220

a legitimate expectation. We are of the opinion that for a public authority to frustrate a claim of legitimate expectation, it must objectively demonstrate by placing relevant material before the court that its decision was in the public interest. This standard is consistent with the principles of good administration which require that State actions must be held to scrupulous standards to prevent misuse of public power and ensure fairness to citizens.

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45. The underlying basis for the application of the doctrine of legitimate expectation has expanded and evolved to include the principles of good administration. Since citizens repose their trust in the State, the actions and policies of the State give rise to legitimate expectations that the State will adhere to its assurance or past practice by acting in a consistent, transparent, and predictable manner. The principles of good administration require that the decisions of public authorities must withstand the test of consistency, transparency, and predictability to avoid being regarded as arbitrary and therefore violative of Article 14.”

58. In the present case, it is not that the State has decided to fill up only some of the available vacancies, but rather it has decided to do away with the recruitment process altogether. It goes without saying that the State’s decision not to appoint a person who has been placed on the select list must not be arbitrary and must be rooted in objective reasoning. The recruitment process, especially when it is conducted on the strength of Act and Rules, cannot be left at the whims and fancies of the State to interfere, through executive orders, without adhering to the principles of consistency and predictability, which are warranted by the rule of law and are pillars of non-arbitrariness.

59. As discussed above, the State has failed to prove that the decision to apply NRP to the ongoing recruitment process was in the larger public interest – as such, the legitimate expectation of fairness in the recruitment process must be upheld.

60. From the discussion made hereinabove and in the facts of this case, the appellants have participated in the process of recruitment conducted in furtherance to the provisions of TSR Act and TSR Rules. Undisputedly, they found place in the panel of selection. It was only at the stage of character verification, the process was kept in abeyance, later cancelled, in terms of NRP which could not have been made applicable to the ongoing recruitment process. The application of the NRP to the ongoing recruitment process for the post of Enrolled Followers in Tripura State Rifles was not in public interest. Therefore, the appellants do have a legitimate expectation of completion of recruitment process in a fair and non-arbitrary manner. The recruitment process should be concluded fairly as per TSR Act and TSR Rules and the candidates may be appointed if they are found to be meritorious. As such, Issue No. 3 is answered accordingly.

61. In view of the discussions made hereinabove, we allow this batch of appeals setting aside the impugned judgment passed by the High Court. As a consequence, the writ petitions of the appellants are allowed quashing Abeyance Memorandum dated 14.03.2018 and Cancellation Memorandum dated 20.08.2018 insofar as their application to the recruitment process for the post of Enrolled Followers in Tripura State Rifles is concerned. It is further directed that the recruitment process for the post of Enrolled Followers in Tripura State Rifles shall now be finalized and completed by the Respondents following the provisions of TSR Act and TSR Rules within a period of two months. Pending application(s), if any, shall stand disposed of.