

Neutral Citation No. - 2025:AHC-LKO:34784

A.F.R.

Reserved on 21.05.2025

Delivered on 06.06.2025.

1. Case :- WRIT - A No. - 35844 of 2019

Petitioner :- Anand Singh Aswal

Respondent :- U.O.I. Thru. Ministry Of Human Resource And Development And Ors.

Counsel for Petitioner :- Shalabh Singh, Gaurav Kaushik, Navneet Awasthi

Counsel for Respondent :- A.S.G., Dr. V.K. Singh, Sanjeev Kumar Srivastava, Shailesh Kumar

With

2. Case :- WRIT - A No. - 589 of 2020

Petitioner :- Niranjana Kumar

Respondent :- Vice Chancellor Babasaheb Bhimrao Ambedkar Univ. Lko And Anr.

Counsel for Petitioner :- Prashant Kumar, Km. Vishwa Mohini, Vimal Kumar

Counsel for Respondent :- Dr. V.K. Singh, S M Singh Royekwar

Hon'ble Rajesh Singh Chauhan, J.

1. In both the aforesaid writ petitions since the facts and legal submissions are similar, therefore, with the consent of learned counsel for the parties both the writ petitions have been connected together and are being decided by a common judgment and order.

2. Heard Sri Shalabh Singh, learned counsel for the petitioner, Dr. V.K. Singh, learned counsel for the University/ opposite parties and Sri Sanjeev Kumar Srivastava, learned counsel for the U.G.C./ opposite parties in the first writ petition and Sri Rajesh Kumar, learned Advocate holding brief of Sri Vimal Kumar, learned counsel for the petitioner and Sri S.M. Singh Royekwar, learned counsel for the opposite parties in the second writ petition.

3. In the first writ petition (WRIT-A No.35844 of 2019), the petitioner has prayed the following prayer:-

“(I) to issue a writ, order or direction in the nature of certiorari thereby quashing the order dated 27.11.2019, passed by the opposite party No.4 by means of which in furtherance of the meeting of Board of Management of opposite party Nos.2, 3, 4 & 5 the offer of appointment given to the petitioner for the post of producer in Electronic Multi Media Research Centre, Babasaheb Bhimrao Ambedkar University, Vidya Vihar, Raebareli Road, Lucknow, annexed to this Writ petition as Annexure No.1.

(I-A) to issue a writ, order or direction in the nature of certorai thereby quashing the order dated 31.10.2018, taken in a closed door Board meeting passed by the opposite party No.5 and communicated to other opposite parties where this arbitrary decision of depriving the petitioner to get the posting even after accepting the appointment letter with all its terms and of cancelling/ withdrawing the post of Producer of EMMRC, in a capricious show of sheer ipse dixit and administrative fiat.

(I-B) to issue a writ, order or direction in the nature of certiorari thereby quashing the order dated 20.08.2019, whereby the aforesaid resolution dated 31.01.2018 was confirmed.

(I-C) to issue a writ, order or direction in the nature of certiorarified mandamus by summoning all the records of the said alleged meeting of Board of Management of opposite party No.5 dated 31.10.2018 and for quashing it forthwith as a blatant exercise of arbitrary discretion and brusque abuse of the powers so conferred where as appointment duly accepted and finalized has been withdrawn callously in a cavalier manner and by allowing not even an opportunity of hearing to the petitioner being the aggrieved party.

II. to issue a writ, order or direction in the nature of mandamus thereby directing the opposite parties to give appointment & joining to the petitioner on the post of Producer in Electronic Multi Media Research Centre, Babasaheb Bhimrao Ambedkar University, Vidya Vihar, Raebareli Road, Lucknow in furtherance of the appoint offered to the petitioner on 08.06.2018.

(III) to issue a writ, order or direction thereby staying the operation & implementation of the order dated 27.11.2019, passed by the opposite party No.4.”

4. In the second writ petition (WRIT-A No.-589 of 2020), the petitioner has prayed the following prayer:-

“(a) to issue a writ of certiorari or any other writ, order or direction in the nature thereof quashing the impugned order dated 27.11.2019 issued by the respondent No.2 along with the resolution of the Board of Management dated 31.10.2018 and confirmation order of the Board dated 20.08.2019 as mentioned in the impugned order dated 27.11.2019 contained in Annexure Nos.10 & 11.

(b) to issue a writ of mandamus or any other appropriate writ(s) or order(s) or directions(s) in the nature thereof directing respondent Nos.1 and 2 to abide by its Memorandum/ Offer of appointment dated 08.06.2018 and grant immediate appointment to the petitioner on the post of “Producer” at the Media Center of the Respondent University and immediately intimate the petitioner a date of joining.”

5. The facts and circumstances of both the writ petitions are more or less similar so in this order the relevant submissions of both the writ petitions are being considered.

6. The petitioners by virtue of the aforesaid writ petitions seek to challenge the order dated 27.11.2019 (Annexure No. 1) passed by the Opp. Party No. 4, which withdrew the appointment of the petitioners to the post of Producer in the Electronic Multi Media Research Centre (here-in-after referred to as the “EMMRC”).

7. The Board of Management EMMRC (here-in-after referred to as the “Respondent 5”) passed a resolution dated 31.10.2018 stating that the appointment to the posts of Producers and Engineers Gr.1 stood cancelled (Annexure 1-A). This was confirmed by the Board of Management of the EMMRC on 20.08.2019.

8. The Babasaheb Bhimrao Ambedkar University, (here-in-after referred to as the “University”) Vidya Vihar, Raebareli Road, Lucknow is a Central University situated in Lucknow, which offers courses in the Graduate and Postgraduate degrees. The Consortium for Educational Communication (here-in-after referred to as the “CEC”) was established by the UGC with the goal of addressing the higher education needs through television and using emerging technologies. It is the nodal body functioning directly under the UGC. The University, like many others of its kind has an EMMRC which is involved in the production of videos and multimedia-based programs in line with the guidelines of the UGC. Furthermore, it also prepares audio-visual study material for the students who intend to pursue education through Information Communication Technology.

9. The University entered into an MOU with the UGC, CEC dated 02.02.2015. The Memorandum of Understanding (MOU) outlines the roles and responsibilities of the University Grants Commission (UGC), Consortium, Universities/Institutions, and Media Centres as in the collaboration for educational communication using electronic media and ICT, joint responsibility for structuring and sustaining media use, academic linkages between institutions and Media Centres, provision of funds by the Commission, defined functions and responsibilities, establishment of Board of Management and Regional Council for management and coordination. This MOU aims to promote technology-enabled education and related activities.

10. The University issued an advertisement dated 13.01.2017 (Annexure No.2) for the recruitment on the posts in the EMMRC and the posts in the advertisement was the post of the Producer. The advertisement provided the qualifications for the various posts and the petitioners, fulfilling the same, applied for the post of Producer (Annexure No. 3). Upon clearing the preliminary round, the

petitioners were called for an interview to New Delhi which they successfully cleared. Pursuant to this, a meeting was called by the Board of Management of the EMMRC on the 30.01.2018 where the petitioners acceptance was considered. A memorandum containing the acceptance was communicated to the petitioners on 08.06.2018 (Annexure No.6). The petitioners accepted the memorandum and the same was communicated to the EMMRC (Annexure No. 7). At this stage, all the formalities regarding the appointment from the side of the petitioners stood completed and all that was required was a final letter of appointment to be issued by the Registrar of the University (here-in-after referred to as the "Respondent No.4"). The petitioners filed several representations to the Opposite parties No. 3 & 4 regarding the status of their appointment (Annexure Nos.8 to 11) , but to no avail.

11. The advertisement dated 13.01.2017, issued by the University for the position in question, included specific clauses reserving the University's right to withdraw or not fill any advertised positions at any time (Annexure No. CA-4). For the convenience of this Hon'ble High Court, Clauses 1 and 16 of the advertisement are reproduced herein.

"Clause 1- The University reserves its right to:

- a. Withdraw any advertised post(s) under any category at any time without assigning any reason. Any consequential vacancies arising at the time of interview may also be filled up from the available candidates. The number of positions is thus open to change.*
- b. Offer the post at a level lower than the advertised, depending A upon the qualification, experience and performance of the candidates*
- c. Draw reserve panel(s) against the possible vacancies in future.*
- d. Increase or decrease of post under any category or not to fill up any of the positions."*

"Clause 16-In case of any inadvertent mistake in process of selection which may be detected at any stage even after issue of appointment letter, the University reserves

the right to modify/withdraw/cancel any communication made to the candidates."

12. The petitioner of the first writ petition also filed an RTI wherein he asked 6 questions relating to the status of his appointment, but while providing the answer to 4 questions failed to answer question Nos.5 and 6, which are key to the case of the petitioners. Question No.5 relates to the procedure and selection process used for the appointment of candidates to the post of cameraman, production assistant and graphic artist. Question 6 relates to the reason for delay of more than 15 months in the issuance of the letter of appointment after the issuance of the offer letter.

13. Further, the UGC also served an email to Respondent No.3 dated 23.09.2019 asking them to take necessary action at the earliest (Annexure No. 14). Thereafter, the petitioners represented before the Opposite Parties No. 1 & 2 , but to no avail (Annexure No. 15). The petitioners again represented before the opposite party Nos. 4 & 6 by filing representations dated 22.10.2019 and 09.11.2019 respectively (Annexure 16 and 17). The impugned order withdrawing the appointment of the petitioners was passed on 27.11.19.

14. Further, the learned counsel for the petitioners has contended that the order dated 27.11.2019 issued by Opposite Party No. 4, which followed the meeting of the Board of Management of Opposite Parties No. 2, 3, 4, and 5, and which rescinded the offer of appointment to the petitioners for the post of Producer at the Electronic Multi Media Research Centre, Babasaheb Bhimrao Ambedkar University, Vidya Vihar, Rae Bareilly Road, Lucknow, is illegal, arbitrary, and entirely beyond jurisdiction.

15. The learned counsel for the petitioners has submitted that Selection Committee for appointment of the petitioners and others on

the post of Producer, was constituted in accordance with the Memorandum of Understanding entered into between the Respondent No.1 and Consortium for Educational Communication (CEC). It explicitly stated that the quorum for such appointments was confined to Chairperson/ Co-chairperson and at least two outside experts and the quorum was met during the interview of the petitioners and as such his appointment to the post was just and reasonable and there was no tenable ground to withdraw the appointment by the Respondent No.1. It is further important to mention here that from the bare reading of clause 2.3 under the heading of functions and powers of the Board of Management that Board of Management may make appointment to the posts in the grade of Rs.15600-39100+GP 5400/- (Group 'A') and above, the Selection Committee in such cases shall consist of the Vice-Chancellor of Host University, who shall be the Chairperson of the Selection Committee, Director CEC as Co-Chairperson, three outside experts one each to be nominated by the Chairperson, BG, CEC, Vice-Chancellor host University and the Director, CEC. Presence of Chairperson/ Co-chairperson and at least two outside experts will meet the requirement of quorum of Selection Committee. Except in case of the Selection of the Director of Media Centre, the Director of the Media Centre will act as Member Secretary to the Selection Committee in all such cases.

16. Learned counsel for the petitioners has further submitted that the respondents have taken the false and cooked plea to deprived the petitioners from the legal rights. Further, the respondent not on its volition, but only after the petitioner of the second writ petition had approached this court previously by way of a writ petition (Service Single No.23834 of 2019) wherein vide order dated 03.09.2019, this court directed the petitioner to make a fresh representation with his grievance and the same would be decided by passing a detailed and reasoned order by the respondent-University. As is being claimed by

the respondent in its reply, if at all the decision to withdraw the post in question had already been taken in a meeting of the Board of Management of EMMRC of the University on 31.10.2018 and confirmed in the meeting held on 20.08.2019, then the respondent has given no justification as to why this was neither communicated to the petitioners when they repeatedly approached the University for joining their post and the petitioner of the first writ petition has also wrote several letters dated 29.06.2018, 27.08.2018, 27.09.2018, 27.02.2019 and 21.08.2019 to respondents but same was neither responded by the respondent nor intimated to the Hon'ble Court in the hearing dated 03.09.2019 when the counsel for respondent-University was preset in the matter. Further, with reference to the selection for the post of Producer the opposite parties did not allow any of the candidates to join, despite the recommendation by the Selection Committee, the issuance of an invitation for appointment and its acceptance by the petitioner citing the withdrawal resolution. Despite this clear approval by the highest executive body (the BOM) on 30.01.2018, the opposite parties later claimed in their counter affidavit in the second writ petition that the selection process for the Producer post was flawed due to non-compliance with an MOU as on 31.10.2018 and final MOU dated 20.08.2019 regarding Selection Committee composition, necessitating the withdrawal of the offer made to the petitioner. This action is arbitrary and demonstrates non-application of mind because if the Selection Committee process for the Producer post was fundamentally flawed as alleged, then the question arises as to why did the BOM approved the selection recommendation on 30.01.2018. Logically, the flaw, if genuine and significant enough to warrant withdrawal, should have been identified and acted upon before or during the approval stage, not months later. Approving a selection despite a fundamental flaw only to withdraw it later on the basis of that same flaw is contradictory and unreasonable. The action of the opposite parties in withdrawing the offer of

appointment vide impugned order dated 27.11.2019 (Annexure No.1) is arbitrary and illegal. The impugned order dated 27.11.2019 was passed without assigning any reasons directing contravening the specific direction of this Court vide order dated 03.09.2019 as mentioned in Annexure No.8 to pass a detailed and reasoned order. The Hon'ble Supreme Court in several cases held and emphasized that the requirement to record reasons is a fundamental principle of natural justice which acts as a check against arbitrary exercise of power and ensures fairness. By failing to provide reasons in the impugned order itself, the opposite parties acted arbitrarily, leaving the petitioner clueless about the grounds for withdrawal until the counter affidavit state, thereby undermining transparency and fairness.

17. Learned counsel for the petitioners has submitted that Article 14 demands that the State act according to reason and law, fairly and non-arbitrarily. Therefore, when the University acts arbitrarily by making an illogical, inconsistent decision regarding the withdrawal, it violates the fundamental guarantee, as has been held by Hon'ble Supreme Court in re: ***E.P. Royappa vs. State of Tamil Nadu and anr., (1974) 4 SCC 3*** in para-85 that equality is a dynamic concept with many aspects and dimensions and it cannot be cribbed, cabined and confined within traditional and doctrinaire limits. From a positivistic point of view, equality is antithetic to arbitrariness. In fact, equality and arbitrariness are sworn enemies... ". Furthermore, as established by the Hon'ble Supreme Court in ***Ramana Dayaram Shetty vs. International Airport Authority of India and others, (1979) 3 SCC 489*** vide paras- 10, 11, 12, and 21 that the State entities like the opposite parties must act fairly and reasonably even in administrative or contractual matters, and their actions must not be arbitrary or based on irrelevant considerations. In the present case, the arbitrariness is patent from the BOM's contradictory action of approving the petitioners selection on 30.01.2018 and later

withdrawing the offer based on an alleged flaw that presumably existed at the time of approval. If the committee was wrongly formed from the beginning, then the question arises as to why did the BOM approved these selection in the first place? It on sets a clear contradiction. A government body shouldn't approve something one day and cancel it the next day based on a reason that existed all along, unless something new and significant came up. This kind of illogical, self-contradictory action is considered arbitrary.

18. The actions of the opposite parties constitute a clear breach of a concluded contract entered into with the petitioners. A valid offer was made by the opposite parties vide Memorandum/Offer letter dated 08.06.2018. The petitioners duly received and unequivocally accepted the offer vide communication dated 19.06.2018 and 13.06.2018. Under Sections 2 (b), 4 and 7 of the Indian Contract Act, 1872, upon the communication of unconditional acceptance through the acceptance letter, the proposal became a promise, resulting in a binding contract between the petitioners and the opposite parties. The opposite parties refusal to permit joining and the subsequent withdrawal order dated 31.10.2018 constitute a repudiation and breach of its contractual obligation to employ the petitioners.

19. As per learned counsel for the petitioners, the opposite parties placed reliance on Clause 16 of the Advertisement as justification is misplaced in law. The Hon'ble Supreme Court in ***Ramana Dayaram Shetty (supra)*** and subsequent cases like ***ABL International Ltd. And anr. vs. Export Credit Guarantee Corpn. of India Ltd. and ors., (2004) 3 SCC 553*** vide paras- 10, 19, 22, 27, and 28 has held that State actions, even within the contractual sphere, are subject to the rigours of Article 14 and cannot be arbitrary or unreasonable. Therefore, even if Clause 16 contractually permitted withdrawal for a "mistake", such power must be exercised reasonably, fairly, and non-

arbitrarily. Invoking this clause selectively, belatedly and based on contradictory BOM actions, as done here, is an arbitrary exercise of power and cannot legally justify the breach of the concluded contract with the petitioners.

20. The decision to withdraw the appointment offer entails severe civil consequences for the petitioners, impacting their livelihood and career. It is a settled principle, under scored in re: *State of Orissa vs. Dr. (Miss) Binapani Dei and others*, AIR 1967 SC 1269, as stated in para 12 and in re: *A.K. Kraipak and others vs. Union of India and others* (1969) 2 SCC 262, para 20, that even administrative orders involving civil consequences must be passed in conformity with the principles of natural justice. The principle of "Audi Alteram Partem" which is "hear the other side" required the opposite parties to provide the petitioner with notice of the alleged procedural defect in the selection committee and an opportunity to present their case before the adverse decision to withdraw the offer was taken. Although it is true that the University has discretion in administrative matters. However, for a public body such as "State" under Article 12 of the Indian constitution, this discretion is not absolute. It must be exercised in a reasonable, fair and in a non-arbitrary manner in accordance to law and which also includes principles of natural justice where applicable. The purpose of hearing the candidate is to allow him to potentially explain why the alleged flaw shouldn't invalidate their specific selection, especially after approval and offer. The failure to do so renders the decision unfair and violative of the principles of natural justice.

21. The formal offer of appointment dated 08.06.2018, issued after a full selection process culminating in BOM approval and duly accepted by the petitioners, created a legitimate expectation that they would be appointed. As held by the Hon'ble Supreme Court in re:

Food Corporation of India vs. M/s Kamdhenu Cattle Feed Industries, (1993) 1 SCC 71 in paras-7, 8 and 10 that legitimate expectation arises from express promises or consistent practices of public bodies. While not an absolute right to appointment, this expectation cannot be defeated arbitrarily or without adhering to principles of fairness and reasonableness. The opposite parties arbitrary withdrawal, without demonstrating any overriding public interest or following affair procedure, violates the petitioners' legitimate expectation engendered by its own actions.

22. The doctrine of promissory estoppel is squarely applicable to this case. The opposite parties made a clear and unequivocal promise through its Offer of Appointment (08.06.2018), intending the petitioners to act upon it. The petitioners acted upon this promise by accepting the offer as on 19.06.2018 and 13.06.2018 and consequently waiting for the joining date, potentially foregoing other employment opportunities during this period, thereby altering their position. As law laid down by the Hon'ble Supreme Court in re: ***M/s Motilal Padampat Sugar Mills Co. Ltd .vs. The State of Uttar Pradesh, (1979) 2 SCC 409*** in para-8 onwards where one party makes a promise on which the other party acts to his detriment, the promisor is estopped from going back on the promise, especially when acting as a state entity. The opposite parties are thus estopped from arbitrarily resiling from its promise to appoint the petitioners.

23. In the light of the above submissions, clarifying the factual position and elaborating on the applicable legal principles and precedents, it is reiterated that the impugned order dated 27.11.2019 and the underlying resolutions dated 31.10.2018 and 20.08.2019, cited by opposite parties are illegal, arbitrary, discriminatory, violative of natural justice and the petitioners' legitimate expectation, constitute a

breach of contract, are barred by promissory estoppel, and are there for liable to be quashed.

24. Learned counsel for the petitioners have vehemently submitted that the respondent-University should be precluded from citing its own alleged internal procedural irregularity as a ground to invalidate the Offer of Appointment issued to and accepted by the petitioners, based on principles analogous to the Doctrine of Indoor Management (Turquand Rule). While originating in Company Law, its underlying principle protecting innocent outsiders dealing with an entity based on its outward representations is rooted in fairness and estoppel, making it relevant here.

25. The petitioners were an outsider engaging with the University via its official recruitment process. The Offer of Appointment (08.06.2018), issued after BOM approval (30.01.2018), represented that necessary formalities were complete. The petitioners acted in good faith on this representation and had no means or duty to investigate the internal composition of the selection committee or its compliance with internal MOUs - matters of indoor management. The core principle, recognized in Indian jurisprudence as held in *re: Lakshmi Ratan Cotton Mills Co. Ltd., Kanpur vs. J. K. Jute Mills Co. Ltd., Kanpur AIR 1957 All 311* vide para-13 is that an outsider acting in good faith is entitled to assume internal procedures have been complied with. Further, the Hon'ble Supreme Court has applied such protective principles to public bodies. In *Chairman & MD, BPL Ltd. vs. S.P. Gururaja and others, (2003) 8 SCC 567*, the Court noted an allottee couldn't be expected to know of internal procedural irregularities. Similarly, the petitioners cannot be penalised for the University's alleged internal lapse regarding committee formation.

26. Therefore, learned counsel for the petitioners have submitted that allowing the University to retract its formal Offer based on its own alleged internal lapse, unknown to the petitioner, is grossly inequitable. This aligns with promissory estoppel principles as held in *Motilal Padampat Sugar Mills (supra); MRF Ltd. vs. Manohar Parrikar and others, (2010) 11 SCC 374* where public bodies cannot arbitrarily resile from representations acted upon in good faith. The University, having held out the appointment as valid, should be estopped from citing its internal irregularity consistent with principles protecting bonafide outsiders.

27. The learned counsel for the respondents has contended that the petitioners have filed the present petitions seeking to quash the order dated 27.11.2019 issued by opposite party No. 4, which rescinded the petitioners' appointment offer. However, in the first writ petition, the petitioner has not contested the resolution dated 31.10.2018 passed by opposite party No. 5, which initially decided to cancel the appointment offer. The petitioner has only challenged the subsequent communication regarding the withdrawal of the appointment offer, not the primary order itself, rendering the writ petition non maintainable and liable to be dismissed on this basis alone. Though in the second writ petition, the petitioner has also challenged the resolution of the Board of Management dated 31.10.2018 and confirmation of the Board order dated 20.08.2019 mentioned in the impugned order dated 27.11.2019.

28. Furthermore, the learned counsel stated that opposite party No. 6 through its letter dated 23.07.2012, indicated that a Memorandum of Understanding (here-in-after referred to as 'MOU') was signed on 02.02.2015 between the University Grants Commission, the Consortium for Educational Communication (here-in-after referred to as 'CEC'), and Babasaheb Bhimrao Ambedkar University, Lucknow

(referred to as 'University') for the operation of the Media Centre. According to Paragraph 2.3 of the MOU, the Chairperson/Co-chairperson and at least two external experts were required to constitute the quorum of the selection committee. However, upon review, it was found that neither the Director of CEC attended the Selection Committee meeting nor did the Director or the Chairperson of the Government Board of CEC nominate any experts. Due to this procedural deficiency, the opposite party No. 5 resolved to cancel the appointment offer.

29. The learned counsel for the respondents further contended that financial assistance was to be provided by the opposite party No. 6. The establishment of the Media Centre was on a 'project mode,' for which 100% annual assistance was to be provided by opposite party No. 6. As this assistance was not provided, the entire project was affected, leading to the withdrawal of the offer letter dated 08.06.2018, following the meeting of the Board of Management of the opposite party Nos. 2 to 5.

30. The learned counsel for the respondents further contended that the petitioners are not entitled to their claim solely based on the offer and acceptance of appointment, as the appointment order was not issued to them.

31. The learned counsel for the respondents has thus submitted that in view of the facts, circumstances and grounds mentioned above, the order dated 27.11.2019 passed by opposite party No. 4, which withdrew the petitioners' appointment, is correct and legally sound. Therefore, there is no necessity for this Hon'ble Court to intervene and it is respectfully requested that this Hon'ble Court may dismiss the writ petitions filed by the petitioners with costs, in the interest of justice.

32. In support of the aforesaid contentions, learned counsel for the opposite parties have placed reliance upon the recent judgment of Apex Court rendered in re: ***Tej Prakash Pathak and others vs. Rajasthan High Court and others*** reported in ***(2025) 2 SCC 1*** referring paras-63 and 64 thereof. In the aforesaid paras, the Apex Court considered the aspect to the effect that the appointment may be denied even after placement in the select list. In the aforesaid judgment, the Apex Court considered and followed the Constitution Bench judgment of Apex Court rendered in re: ***Shankarsan Dash vs. Union of India*** reported in ***(1991) 3 SCC 47***. Paras-63 & 64 read as under:-

“63. In Section (C) above, we have already noticed the Constitution Bench decision of this Court in Shankarsan Dash [Shankarsan Dash v. Union of India, (1991) 3 SCC 47 : 1991 SCC (L&S) 800] where it was held : (SCC p. 51, para 7)

“7. ... Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted.”

64. Thus, in light of the decision in Shankarsan Dash [Shankarsan Dash v. Union of India, (1991) 3 SCC 47 : 1991 SCC (L&S) 800] , a candidate placed in the select list gets no indefeasible right to be appointed even if vacancies are available. Similar was the view taken by this Court in Subash Chander Marwaha [State of Haryana v. Subash Chander Marwaha, (1974) 3 SCC 220: 1973 SCC (L&S) 488] where against 15 vacancies only top 7 from the select list were appointed. But there is a caveat. The State or its instrumentality cannot arbitrarily deny appointment to a selected candidate. Therefore, when a challenge is laid to State's action in respect of denying appointment to a selected candidate,

the burden is on the State to justify its decision for not making appointment from the select list.”

33. Heard learned counsel for the parties and perused the material available on record as well as the judgments so cited by the learned counsel for the parties.

34. Notably, the Board of Management (BOM), which is a Highest Executive Body, had given an approval on 30.01.2018 for consideration and approval of selection, on the report of Selection Committee, for the post of Producer and the resolution to that effect was passed in favour of the petitioners. The opposite party No.4 issued a memorandum on 08.06.2018 by means of which the petitioners were offered appointment on the post of Producer. Thereafter, the petitioners sent the acceptance letter on 13.06.2018 along with attestation form sent by the University. It has also been noted that the petitioners could not receive any communication for quite long time so the petitioner in the first writ petition preferred representation under RTI and the reminder representations since February, 2019 till passing of the impugned order dated 27.11.2019. Even no proper information has been provided to the petitioner under RTI inasmuch as the petitioner asked six questions relating to status of his appointment (petitioner of first writ petition), but they provided answers to four questions, failed to answer question Nos. 5 & 6 whereby the question relating to procedure and selection process for appointment in question and the reason of delay for more than fifteen months in issuing a letter of appointment was asked. The petitioner in the second writ petition had earlier filed one writ petition and this Court granted liberty to approach the Competent Authority through a representation and direction was issued to the authority to pass speaking and reasoned order on that representation but impugned order has been passed, which is a non-speaking and un-reasoned order.

35. In the impugned order dated 27.11.2019, no reason of any kind whatsoever has been given inasmuch as only this much has been indicated that the memorandum / offer of appointment for the post of Producer is hereby withdrawn in terms of resolution of Board dated 31.10.2018 confirmed in the meeting of Board of Management of EMMRC held on 20.08.2019.

36. The manner under which the impugned order dated 27.11.2019 withdrawing the offer of appointment has been issued is violative of Article 14 of the Constitution of India inasmuch as it is a settled law that the requirement to record reasons is a fundamental principle of natural justice which acts as a check against arbitrary exercise of powers and ensures fairness. The opposite parties acted arbitrarily and in violation of principles of natural justice. Considering the aforesaid legal position, I am respectfully following the dictums of Apex Court in re: ***E.P. Royappa (supra) and Ramana Dayaram Shetty (supra) and ABL International Ltd. (supra)***.

37. I have also noted the fact that before withdrawing the offer of appointment of the petitioners for the post of Producer, no opportunity of hearing has been given to the petitioners whereas the law is trite on the subject in re: ***Dr. Binapani Dei (supra) and A.K. Kraipak Vs. Union of India (supra)*** wherein the Apex Court has held that if any action or inaction of the authorities entail severe civil consequences, impacting his/ her livelihood or career, those inaction or action must be in conformity with the principles of natural justice.

38. The submission of learned counsel for the petitioners regarding the legitimate expectation finds force inasmuch as the petitioners were absolutely unaware as to whether the constitution of Selection Committee was proper or not and after being appeared before the

Selection Committee and being declared successful, the petitioners were issued offer of appointment on 08.06.2018 which was accepted by them on 13.06.2018 and 19.06.2018. The petitioners are having no employment as informed by learned counsel for the petitioners.

39. Though the petitioners have got no absolute right of appointment in these circumstances, but their expectation cannot be defeated arbitrarily or without adhering to principles of fairness and reasonableness. The aforesaid submission of learned counsel for the petitioners finds support from the dictum of Apex Court in re: ***Food Corporation of India (supra)***. Even in view of the aforesaid facts and circumstances, the ‘doctrine of promissory estoppel’ would be applicable in the present case. The Apex Court in re: ***Motilal Padampat Sugar Mills Co. Ltd. (supra)*** has held that where any party makes promise on which the other party acts to his detriment, the promisor is estopped from going back on the promise.

40. Besides, the petitioners acted in a good faith manner appeared before the Selection Committee and succeeded in such selection. The offer of appointment of the petitioners has been withdrawn on account of fault on the part of the Competent Authorities who had constituted the committee, which as per the opposite parties, was not proper committee and this fact was not known to the petitioners. If the committee was wrongly formed from the very beginning, then the question arises as to why did the Board of Management approve such committee on 30.01.2018 and issued offer of appointment on 08.06.2018. The government body should not approve something one day and cancel it the next day based on reason that existed all along, unless something new and significant came up. Not only the above, if such committee was wrongly formed, such mistake could have been rectified before the date of interview i.e. on 20.11.2017, or at the best on or before 30.01.2018 when the meeting was convened by the

Board of Management of EMMRC for consideration and approval of selection on the report of the Selection Committee. It took about two years from the date of interview i.e. on 20.11.2017 till 27.11.2019, the date of impugned order, to understand by the Competent Authority that the committee was wrongly formed and proper information to that effect has not been provided to the petitioners despite the couple of representations have been preferred by the petitioners. Even non-speaking and un-reasoned order dated 27.11.2019 has been passed despite the fact that this Court in earlier writ petition directed the authorities to pass speaking and reasoned order on the representation of the petitioner. Therefore, the impugned order dated 27.11.2019 is liable to be set aside being arbitrary and violative of Article 14 of the constitution of India.

41. The Apex Court in re: ***Shankarsan Dash*** (*supra*) has observed that the State Authority has got no licence of acting in an arbitrary manner and the decision not to fill-up the vacancy is to be taken bonafide for appropriate reasons. In the present case, the action/inaction on the part of the concerning authorities of the University does not appear to be an action taken in conformity with the principles of natural justice inasmuch as the impugned order is absolutely a non-speaking and un-reasoned order and the same has been intimated to the petitioners after about two years from the date of interview. The fact about wrong formation of Committee must be considered by the Board of Management at the very inception and appointment of the petitioners should have not been approved vide resolution dated 30.01.2018. Therefore, the facts and circumstances of the present case are different from the facts and circumstances of the case in re: ***Tej Prakash Pathak*** (*supra*) and in re: ***Shankarsan Dash*** (*supra*), therefore, it would not be applicable in the present case.

42. It is apt to note here that there may not be any dispute on the trite law that the appointment may be denied even after placement in the select list.

43. Therefore, in view of what has been considered above, I hereby set aside/ quash the impugned order dated 27.11.2019 issued by the Registrar of Baba Saheb Bhimrao Ambedkar University, Lucknow along with resolution of the Board of Management dated 31.10.2018 and the confirmation order of the Board of Management dated 20.08.2019, as mentioned in the impugned order, so far as it relates to the petitioners of both the aforesaid writ petitions.

44. The opposite parties are directed to forthwith give effect to the offer of appointment dated 08.06.2018 and appoint the petitioners on the post of Producer with all consequential service benefits.

45. Accordingly, both the aforesaid writ petitions are *allowed*.

46. No order as to cost.

Before parting with, I appreciate the efforts of research work done by Mr. Rudra Singh Krishna and Ms. Mariyam Iqbal, Law Interns in finding out the relevant case laws applicable in the present case.

[Rajesh Singh Chauhan,J.]

Order Date :- 6th June, 2025.
Suresh/