2024:DHC:3518

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 29 April 2024
Pronounced on: 2 May 2024

\+ W.P.(C) 16383/2022 and CM 52958/2022

KUNWAR DIVYANSH SINGH ..... Petitioner

Through: Mr. Sudipta Basu, Adv.

versus

UNION OF INDIA AND ORS. ..... Respondents

Through: Mr. Rakesh Kumar, CGSC with Mr. Sunil, Advocate for R1 & 2
Mr. T. Singhdev, Mr. Bhanu Gulati, Ms. Ramanpreet Kaur, Mr. Abhijit Chakravarty and Mr. Sourabh Kumar, Advocates for R3

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

J U D G M E N T

% 02.05.2024

1. Students who, after clearing their Class XII examination, following a 10+2 course of study, desire admission to medical or dental colleges, have to undergo the National Eligibility-cum-Entrance Test – Undergraduate (NEET-UG), which is conducted by the National Testing Agency (NTA).

2. As per the Central Pool MBBS/BDS Seats Allocation Scheme (CPMSA Scheme) students who passed the NEET-UG examination

belong to certain specified categories are placed in the Central pool.

3. As per guidelines for allocation of Central Pool MBBS/BDS seats for the academic year 2021-2022 issued *vide* O.M. dated 14 October 2021 through the Ministry of Health and Family Welfare (MoHFW), Pradhan Mantri Rashtriya Bal Puraskar (PMRBP) winning children were entitled to be part of the Central Pool under the Ministry of Women and Child Development (MoWCD).

4. *Vide* OMs dated 4 August 1992 and 27 February 2014 issued by MoHFW, two seats were allocated to the Ministry of Human Resource Development (MoHRD)/Indian Council for Child Welfare (ICCW) for allocation to eligible National Bravery awardees. The statement indicating the allocation of MBBS/BDS seats from the Central Pool quota for beneficiary Central Ministries/departments, as enclosed with the said O.M.s indicates that two seats were allocated for National Bravery Award winners to the ICCW.

5. Similarly, *vide* O.M. dated 13 August 2018, the MoHFW allocated two seats to the MoHRD/ICCW for eligible National Bravery Awardees. The statement annexed to the said O.M. also indicated that two seats were allocated to the ICCW for National Bravery Awardees.

6. For the academic year 2020-2021, O.M. dated 9 April 2020 issued by the MoHFW notified the guidelines for allocation of General Pool MBBS/BDS seats. Clause 3 thereof provides for

reservation under the Ministry of Women and Child Development (MoWCD) for eligible awardees of the PMRBP.

7. On 23 November 2020, the MoHFW issued a statement indicating allocation of MBBS/BDS seats from the Central Pool quota for beneficiary Central Ministries/Departments. Three seats were allocated for PMRBP awardees. Similarly, in O.M. dated 3 February 2022, the MoHFW allocated two seats to the MoHRD/ ICCW for allocation to eligible National Bravery Awardees. The statement of allocation of MBBS/BDS seats from the Central Pool quota for beneficiaries Central Ministry/Departments as annexed with the said O.M. indicated that two seats were allocated to the MoWCD for PMRBP awardees.

8. The NTA conducted the NEET (UG)-2022 Entrance Examination on 17 July 2022. Subsequently, the Uttar Pradesh NEET (UG)-2022 counselling dates were also notified by the Directorate of Medical Education and Training. The petitioner applied for participation in the 2022 counselling for the NEET (UG) 2022 and the UP NEET (UG)-2022 to be conducted on 11 October 2022 and 26 October 2022 respectively.

9. On 20 September 2022, the MoWCD informed the petitioner that the quota for PMRBP awardees in the Central Pool Scheme for the MoWCD had been discontinued and that the seats allocated in this regard had been surrendered to the MoHFW under email dated 21 September 2022.

10. The results of the NEET (UG) 2022 examination were notified on 8 September 2022. The petitioner scored 85.566123 percentile.

11. The petitioner applied to MoWCD for nomination of his name against Central Pool MBBS seats for the academic year 2022-2023. In the said application, it was stated that the petitioner was a PMRBP 2021 awardee. The MoWCD, however, informed the petitioner *vide* letter dated 20 September 2022 that it had discontinued the quota for PMRBP awardees in MBBS/BDS under the Central Pool Scheme and surrendered the seats mentioned for the PMRBP awardees to the MoHFW.

12. In the guidelines for allocation of Central Pool MBBS/BDS seats for the academic year 2022-2023, notified *vide* O.M. dated 30 September 2022 issued by the MoHFW, PMRBP awardees were excluded. Thus, while there was a specific provision for PMRBP awardees in the Central Pool quota under the MoWCD, prior to which National Bravery awardees were included in the Central Pool quota under the MoHFW, the said provision stood excluded in the guidelines for Central Pool allottees for the academic year 2022-2023.

13. These are the facts.

14. The petitioner's simple case is that the pre-existing quota for PMRBP awardees in the Central Pool for allocation of MBBS/BDS seats should continue.

15. I have heard Mr. Sudipta Basu, learned counsel for the petitioner and Mr. Rakesh Kumar, learned Central Government Standing Counsel (CGSC) for the respondents.

16. Mr. Basu submits that the provision for PMRBP awardees in the Central Pool quota for allocation of MBBS/BDS seats was arbitrary and unjustifiable. He submits that the fact that there had been, till 2022-2023, provision for PMRBP awardees in the Central Pool quota every year, and that the sudden discontinuance of the reservation available for the said quota was unsustainable in law. He submits that by reason of the past practice of including PMRBP awardees in the Central Pool quota, the petitioner had a legitimate expectation that she would also figure in the Central Pool quota. Such a legitimate expectation could not be divided without valid ground.

17. Mr. Basu relies for this purpose on the judgment of ***State of Kerala v. Madhavan Pillai***[1].

18. Responding to the submission of Mr. Basu, Mr. Rakesh Kumar, learned CGSC relies on paras 5 to 8 and 13 of the counter-affidavit filed by the Union of India, which read thus :

> "5. That in the past, the Bravery awards to the children were being conferred by an NGO named Indian Council for Child Welfare (ICCW). Government of India also supported and encouraged the winners of these awards. However, the Government dissociated itself from ICCW when financial integrity of ICCW was questioned by Delhi High Court during the hearings of a WP(C) No.11116/2015

[1] **(1988) 4 SCC 669**

Nina P Nayak and Others Vs Registrar of Societies and others.

6. That therefore the scheme of National Awards for children was revamped in the year 2018 to include Bravery as an additional component in the "Pradhan Mantri Rashtriya Bal Puraskar" under the category of Bal Shakti Puraskar.

7. That the Ministry of Health and Family Welfare maintains a Central Pool of MBBS/BDS seats by seeking voluntary contribution from the State Governments having Medical / Dental Colleges and certain other Medical Institutions. The seats collected in the Central Pool from the State Governments / institutions are in turn allocated to the States/UTs (North eastern States and UTs), which are deficient in Medical / Dental colleges facilities of their own and to certain other Ministries / Departments like Ministry of External Affairs, Defence, Home Affairs, etc. This scheme is a welfare scheme in nature.

8. That under the above scheme, for the awardees of National Bravery Award, Ministry of Health and Family Welfare (MoH&FW) had been allocating MBBS/BDS seats under Central Pool to ICCW on the request of Ministry of Women & Child Development (MoWCD). However, after dissociation from ICCW, two MBBS seats were allocated to Ministry of Women & Child Development (MoWCD) for nomination of eligible awardees of 'Pradhan Mantri Rashtriya Bal Puraskar' (erstwhile National Child Award for Exceptional Achievements).

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13. That the MoWCD has once again examined the matter in detail and was of the view that bestowing of Pradhan Mantri Rashtriya Bal Puraskar on any child is a great honour and recognition to him, and no additional benefits may be given to the awardees beyond the Award. The Ministry was therefore, not in favour of the allocation of MBBS seats to the awardees of PMRBP under Central Pool Scheme. Thus, MoWCD vide O.M. dated 15.09.2022 communicated its view to MoH&FW on 15.09.2022 and requested the Ministry of Health & Family Welfare to abolish MBBS/BDS for PMRBP awardees. Accordingly, the allocation of two MBBS seats for the PIRBP awardees have been discontinued by the Ministry of Health & Family Welfare with the approval of Hon'ble union Minister of Health & Family Welfare from the academic session 2022-23."

19. He submits that there is no vested right in PMRBP awardees to seek a placement in the Central Pool quota and that the decision to discontinue inclusion of PMRBP awardees in the Central Pool quota was taken for good reasons. He submits that the principle of legitimate expectation does not apply in such a case.

20. Having heard learned counsel for both sides, it is clear that the petitioner really has no case. While the Court commends the petitioner for being a PMRBP awardee, that cannot clothe the petitioner with a legally enforceable right to be included in the Central Pool quota. The decision on whom to include or not to include in the Central Pool quota is essentially one of academic policy, in which courts cannot interfere except in the rarest of rare cases. The decision to discontinue reservation in the Central Pool quota for PMRBP awardees with effect from 2022-2023 was taken consciously with the concurrence of the Union Minister of Health and Family Welfare.

21. There can be no universal principle that awardees of all colours and complexions should find a place in the Central Pool quota. There are various categories of bravery awardees. Even amongst recipients of bravery awards, the Government is well within its power to select certain awardees as entitled for a quota in admission/recruitment in preference to others. The motivation indicated in para 13 of the counter-affidavit of respondents, given the stature of the PMRBP as a great honour and privilege, no additional benefits were required to be granted to such awardees, cannot be regarded as entirely arbitrary.

22. Even otherwise, a Court cannot venture into the arena of administrative policy, much less academic policy, and issue a mandamus to provide reservation to any category of candidates for admission or for recruitment, where there is no rule, regulation or binding instruction to that effect. The Court can only interfere if there are instructions, rules, regulations or other statutory provision and, in violation thereof, reservation is not being provided.

23. The invocation by Mr. Basu of the principle of legitimate expectation is also misconceived. I have in my recent decision in ***Jiwesh Kumar v. UOI***[2], examined the scope of legitimate expectation and have had occasion in that context to observe thus :

> "40. ……..In ***Jitendra Kumar v. State of Haryana***[3], the Supreme Court observed thus, apropos of legitimate expectation:
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> > "58. Application of doctrine of legitimate expectation or promissory estoppel must also be considered from the aforementioned viewpoint. A legitimate expectation is not the same thing as an anticipation. *It is distinct and different from a desire and hope. It is based on a right*. [See ***Chanchal Goyal (Dr.) v. State of Rajasthan***[4] and ***Union of India v. Hindustan Development Corpn***[5]**.** It is grounded in the rule of law as requiring regularity, predictability and certainty in the Government's dealings with the public. We have no doubt that the doctrine of legitimate expectation operates both in procedural and substantive matters.
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> > 59. In ***Kuldeep Singh v. Govt. of NCT of Delhi***[6] this Court held:

[2] **2024 SCC OnLine Del 2858**
[3] **(2008) 2 SCC 161**
[4] **(2003) 3 SCC 485**
[5] **(1993) 3 SCC 499**
[6] **(2006) 5 SCC 702**

> "25. It is, however, difficult for us to accept the contention of the learned Senior Counsel Mr Soli J. Sorabjee that the doctrine of 'legitimate expectation' is attracted in the instant case. Indisputably, the said doctrine is a source of procedural or substantive right. (See ***R. v. North and East Devon Health Authority, ex p Coughlan***[7]) But, however, the relevance of application of the said doctrine is as to whether the expectation was legitimate. *Such legitimate expectation was also required to be determined keeping in view the larger public interest*. Claimants' perceptions would not be relevant therefor. The State actions indisputably must be fair and reasonable. Non-arbitrariness on its part is a significant facet in the field of good governance. The discretion conferred upon the State yet again cannot be exercised whimsically or capriciously. But *where a change in the policy decision is valid in law, any action taken pursuant thereto or in furtherance thereof, cannot be invalidated*."
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> (Emphasis supplied)

In ***U.O.I. v. Hindustan Development Corporation***[8], the Supreme Court observed, with respect to the principle of legitimate expectation, in the circumstances in which it could, and could not, apply, thus:

> "33. On examination of some of these important decisions it is generally agreed that legitimate expectation gives the applicant sufficient locus standi for judicial review and that the doctrine of legitimate expectation is to be confined mostly to right of a fair hearing before a decision which results *in negativing a promise or withdrawing an undertaking* is taken. The doctrine does not give scope to claim relief straightaway from the administrative authorities as no crystallised right as such is involved. *The protection of such legitimate expectation does not require the fulfilment of the expectation where an overriding public interest requires otherwise.* In other words where a person's legitimate expectation is not fulfilled by taking a particular decision then decision-maker

[7] **2001 QB 213 : (2000) 2 WLR 622 : (2000) 3 All ER 850 (CA)**
[8] **(1993) 3 SCC 499**

should justify the denial of such expectation by showing some overriding public interest. Therefore even if substantive protection of such expectation is contemplated that does not grant an absolute right to a particular person. It simply ensures the circumstances in which that expectation may be denied or restricted. A case of legitimate expectation would arise when a body by representation or by past practice aroused expectation which it would be within its powers to fulfil. The protection is limited to that extent and a judicial review can be within those limits. But as discussed above a person who bases his claim on the doctrine of legitimate expectation, in the first instance, must satisfy that there is a foundation and thus has locus standi to make such a claim. *In considering the same several factors which give rise to such legitimate expectation must be present. The decision taken by the authority must be found to be arbitrary, unreasonable and not taken in public interest. If it is a question of policy, even by way of change of old policy, the courts cannot interfere with a decision.* In a given case whether there are such facts and circumstances giving rise to a legitimate expectation, it would primarily be a question of fact. If these tests are satisfied and if the court is satisfied that a case of legitimate expectation is made out then the next question would be whether failure to give an opportunity of hearing before the decision affecting such legitimate expectation is taken, has resulted in failure of justice and whether on that ground the decision should be quashed. If that be so then what should be the relief is again a matter which depends on several factors.

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35. Legitimate expectations may come in various forms and owe their existence to different kind of circumstances and it is not possible to give an exhaustive list in the context of vast and fast expansion of the governmental activities. They shift and change so fast that the start of our list would be obsolete before we reached the middle. By and large they arise in cases of promotions which are in normal course expected, though not guaranteed by way of a statutory right, in cases of contracts, distribution of largess by the Government and in somewhat similar situations. For instance discretionary grant of licences, permits or the like, carry with it a reasonable expectation, though not a legal right to renewal or non-revocation, but to summarily

disappoint that expectation may be seen as unfair without the expectant person being heard. *But there again the court has to see whether it was done as a policy or in the public interest either by way of G.O., rule or by way of a legislation. If that be so, a decision denying a legitimate expectation based on such grounds does not qualify for interference unless in a given case, the decision or action taken amounts to an abuse of power. Therefore the limitation is extremely confined and if the according of natural justice does not condition the exercise of the power, the concept of legitimate expectation can have no role to play and the court must not usurp the discretion of the public authority which is empowered to take the decisions under law and the court is expected to apply an objective standard which leaves to the deciding authority the full range of choice which the legislature is presumed to have intended.* Even in a case where the decision is left entirely to the discretion of the deciding authority without any such legal bounds and if the decision is taken fairly and objectively, the court will not interfere on the ground of procedural fairness to a person whose interest based on legitimate expectation might be affected. For instance if an authority who has full discretion to grant a licence prefers an existing licenceholder to a new applicant, the decision cannot be interfered with on the ground of legitimate expectation entertained by the new applicant applying the principles of natural justice. *It can therefore be seen that legitimate expectation can at the most be one of the grounds which may give rise to judicial review but the granting of relief is very much limited.* It would thus appear that there are stronger reasons as to why the legitimate expectation should not be substantively protected than the reasons as to why it should be protected. In other words such a legal obligation exists whenever the case supporting the same in terms of legal principles of different sorts, is stronger than the case against it. As observed in ***Attorney General for New South Wales case***[9] : *"To strike down the exercise of administrative power solely on the ground of avoiding the disappointment of the legitimate expectations of an individual would be to set the courts adrift on a featureless sea of pragmatism. Moreover, the notion of a legitimate expectation (falling short of a legal right) is too nebulous to form a basis for invalidating the exercise of a power when its exercise otherwise accords with law." If a*

[9] **(1990) 64 Aust LJR 327**

denial of legitimate expectation in a given case amounts to denial of right guaranteed or is arbitrary, discriminatory, unfair or biased, gross abuse of power or violation of principles of natural justice, the same can be questioned on the well-known grounds attracting Article 14 but a claim based on mere legitimate expectation without anything more cannot ipso facto give a right to invoke these principles. It can be one of the grounds to consider but the court must lift the veil and see whether the decision is violative of these principles warranting interference. It depends very much on the facts and the recognised general principles of administrative law applicable to such facts and the concept of legitimate expectation which is the latest recruit to a long list of concepts fashioned by the courts for the review of administrative action, must be restricted to the general legal limitations applicable and binding the manner of the future exercise of administrative power in a particular case. It follows that the concept of legitimate expectation is "not the key which unlocks the treasury of natural justice and it ought not to unlock the gates which shuts the court out of review on the merits", particularly when the element of speculation and uncertainty is inherent in that very concept. As cautioned in ***Attorney General for New South Wales case*** the courts should restrain themselves and restrict such claims duly to the legal limitations. It is a well-meant caution. Otherwise a resourceful litigant having vested interests in contracts, licences etc. can successfully indulge in getting welfare activities mandated by directive principles thwarted to further his own interests. The caution, particularly in the changing scenario, becomes all the more important.

41. Thus, the following characteristics of the principle of legitimate expectation are significant:

(i) A legitimate expectation is not a desire or hope. It is based on the existence of a right.

(ii) Legitimate expectation is grounded on the requirement of ensuring regularity, predictability and certainty in the government's dealings with the public.

(iii) Legitimate expectation cannot overweigh public interest. An action taken in public interest cannot be interfered with, on the ground that persons affected by it legitimately expected otherwise. To succeed in a plea of legitimate

> expectation, one has to show that the impugned action is arbitrary, unreasonable, and not taken in public interest.
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> (iv) If the impugned action is based on a change in a policy decision, and the policy change is valid in law, the impugned action cannot be invalidated. An action taken by way of a Government Order, Rule or a legislation, cannot be invalidated on the principle of legitimate expectation, unless the act amounts to abuse of power.
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> (v) The principle of legitimate expectation normally requires only that, before the impugned decision, negativing a promise of withdrawing an undertaking, is taken, the affected person is entitled to arrive at a fair hearing.
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> (vi) The confines of the principle of legitimate expectation are, therefore, extremely limited.
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> (vii) Setting aside actions taken in valid exercise of administrative power, solely to avoid disappointing the legitimate expectations of an individual, would result in courts being set adrift on a featureless sea of pragmatism.
>
> (viii) The notion of legitimate expectation is too nebulous to constitute the basis for invalidating the exercise of power, if the exercise otherwise accords with law. A claim based on mere legitimate expectation, without anything more, cannot ipso facto give a right to hand the impugned action invalidated."

24. If for example, a candidate undertakes an examination then based on the number of questions that the candidate has correctly answered, the candidate has a legitimate expectation of achieving a particular score. That is because the expected consequence of answering a particular number of questions correctly is achievement of a particular score. The candidate, therefore, has a legitimate expectation of achieving that score. The anticipation that because of having achieved that score, the candidate would manage to obtain

admission in a particular institution is, however, merely a hope and not an expectation. The chance of the candidate obtaining admission would depend on several other factors including performance of others, interviews, or other steps that have to be undertaken to clear path for obtaining admission. A candidate therefore cannot claim by mere reason of his score, that he has a legitimate expectation of admission into a particular institution.

25. In the present case, based on the acts of bravery displayed by him, the petitioner may have been able to state that he had a legitimate expectation to obtaining a bravery award. The hope that because of having obtained the bravery award or the PMRBP awardee, the petitioner would figure in the Central Pool quota is, however, merely a hope and not an expectation.

26. The principle of legitimate expectation, therefore, has no application to the facts of the present case.

27. The judgment of the Supreme Court in ***Madhavan*** (*supra*) is clearly distinguishable. That was a case of cancellation of granted sanction without hearing the parties. Paras 19 to 21 of the decision clearly indicate that it cannot be analogized to the facts of the present case:

> "19. Mr Poti contended that an applicant obtaining sanction under Rule 2-A(5) would only remain in the position of an applicant and it is only after further permission is granted under Rule 11, the applicant can be said to acquire 'legitimate expectation rights' and the requisite locus to challenge any order of cancellation passed by the Government. In support of his argument Mr Poti relied upon (1) ***State***

of Kerala* v. *A. Laxmikutty[10] where the court after referring to the ruling in ***Mani Subrat Jain* v. *State of Haryana***[11] that a person whose name had been recommended for appointment as a District Judge by the High Court under Article 233(1) had no legal right to the post, held that unless there was a judicially enforceable right no writ of mandamus for enforcement of a right would lie; (2) ***Chingleput Bottlers* v. *Majestic Bottling***[12] where the distinction drawn by **Megarry V.C. in *Mclnnes* v. *Onslow Fane***[13] between initial applications for grant of licence and the revocation, suspension or refusal to renew licence already granted was referred to and the court observed that "the principle that there was a duty to observe the audi alteram partem" rule may not apply to cases which relate not to rights or legal expectations but to mere privilege or licence: (3) Wade on *Administrative Law*, 5th Edn. where difference between rights, liberties and expectations have been set out as under: (pp. 464-65)

> "In many cases legal rights are affected, as where property is taken by compulsory purchase or someone is dismissed from a public office. But in other cases the person affected may have no more than an interest, a liberty or an expectation. An applicant for a licence, though devoid of any legal right to it, is as a general rule entitled to a fair hearing and to an opportunity to deal with any allegations against him. The holder of a licence who applies for its renewal is likewise entitled to be fairly heard before renewal can be refused. So also is a racegoer before he can be put under a statutory ban against entering a public racecourse.

In none of these situations is there legal right, but they may involve what the courts sometimes call 'legitimate expectation'. This expression furnishes judges with a flexible criterion whereby they can reject unmeritorious or unsuitable claims. It was introduced in a case where alien students of 'scientology' were refused extension of their entry permits as an act of policy by the Home Secretary. The Court of Appeal held that they had no legitimate expectation of extension beyond the permitted time and so no right to a hearing, though revocation of their permits within that time would have been contrary to legitimate expectation. Likewise where car-hire drivers had habitually offended against airport bye-laws, with many convictions and unpaid fines, it was held that they had no legitimate expectation of being heard before being banned by the airport authority. There is some ambiguity in the dicta about legitimate expectation, which may apparently mean either expectation of a fair hearing or expectation of

[10] **(1986) 4 SCC 632, 654 : (1986) 1 ATC 735**
[11] **(1977) 1 SCC 486: 1977 SCC (L&S) 166**
[12] **(1984) 3 SCC 258 : (1984) 3 SCR 190, 211-13 : AIR 1984 SC 1030**
[13] **(1978) 3 All ER 211**

the licence or other benefit which is being sought. But the result is the same in either case: absence of legitimate expectation will absolve the public authority from affording a hearing.

For the purposes of natural justice the question which matters is not whether the claimant has some legal right by whether legal power is being exercised over him to his disadvantage. It is not a matter of property or of vested interests, but simply of the exercise of Governmental power in a manner which is fair and considerate."

20. The argument, therefore, was that the respondents had no locus standi to move the court to seek the quashing of Ex. P-7 order and mandamus for their applications being approved and granted sanction under Rule 17. Refuting this contention Dr Chitale argued that the respondents were "persons aggrieved" and they had locus standi in the full sense of the term to move the court since their right to open a school, though not claimed as a constitutional right was a natural right and their suitability to open a school in the selected area having been accepted and their names included in the list published under Rule 2-A(5), the Government could not cancel the list. Dr Chitale relied upon the decisions of this Court in ***Ebrahim Aboobakar* v. *Custodian General of Evacuee Property***[14] and ***S.P. Gupta* v. *Union of India***[15] . Arguments were also advanced by the appellant's counsel to contend that any permission given under the rule to run a school would only be a privilege while the respondent's counsel would say that it was a right within the meaning of Article 19(1)(*g*) of the Constitution. We do not think it necessary to go into this aspect of the matter because of the controversy narrowing down to the question whether after having granted sanction to the respondents under Rule 2-A(5) to open/upgrade schools, subject to satisfying the conditions under Rule 9 and obtaining clearance under Rule 11, the Government could go back on the matter and cancel the sanction order and that too without giving the respondents any hearing at all.

21. In the course of the arguments Mr Poti laid stress upon the fact that while Rule 9 lays down several conditions for being fulfilled before permission can be granted under Rule 11 to an educational agency to start a new school or upgrade a school, the order made under Rule 2-A(5) makes mention of only one of the several conditions being noticed by the Government viz. the provision of land for the proposed school and as such the order, despite the use of the word "sanction" can by no stretch of imagination be considered as an order which conferred rights upon the respondents and therefore it was futile for the respondents to say that legally enforceable recognition

[14] (1952) 1 SCC 798 : AIR 1952 SC 319 : 1952 SCR 696
[15] 1981 Supp SCC 87

had been given to them to open schools in the selected areas. Going a step further Mr Poti said that in many cases even the solitary factor noticed by the Government viz. the provision of land for the proposed school had not been adequately satisfied and this shortcoming has been referred to in the alleged sanction order passed under Rule 2-A(5). Going to the other end, Mr Iyer, and Dr Chitale tried to take up the stand that the sanction order passed under Rule 2-A(5) was virtually one under Rule 11 because the respondents had furnished information pertaining to all the conditions enunciated in Rule 9 and therefore what remained for the Government was only to see whether the schools opened or upgraded by the respondents were entitled to grant of recognition under Rule 17 or not. We are unable to find merit in the last contention of the respondents in this behalf because the Division Bench has clearly stated in para 52 of the judgment that the stage of the Government giving directions for fulfilment of various conditions has not been reached and therefore it was directing "the State to proceed to take the further steps commencing from Rule 11, Chapter V of the K.E.R." In view of this categoric finding and since it is the admitted position that the Government have not subjectively scrutinised the application of each of the respondents with reference to the conditions enunciated in Rule 9, there is no scope for the respondents to say that the sanction order made under Ex. P-4 was for all practical purposes an order made under Rule 11. Even so, we cannot accept the contention of the State that the applications submitted by the respondents, despite their approval by the District Educational Officer, the Director and the Government and the publication of the sanction order under Rule 2-A(5) remained only at the threshold and it was therefore open to the Government to revise its policy of opening new schools or upgrading existing schools and throw overboard all the approved applications. We do not therefore feel persuaded to accept the first contention of the appellant's counsel that the sanction order passed in favour of the respondents under Rule 2-A(5) carried no rights with them and that they would remain still-born orders till they passed through the third stage and were given acceptance under Rule 11."

28. In the present case, it is not as though there was any enforceable right in the petitioner to be included in the Central Pool quota by virtue of his being a PMRBP awardee. There being no such enforceable right, and no promise to the effect having been held out by the respondents, the decision not to continue reservation for PMRBP

awardees in the Central Pool quota cannot be said to be vulnerable to judicial interference.

Conclusion

29. For all the reasons, this writ petition is devoid of merit and is accordingly dismissed, with no orders as to costs.

C.HARI SHANKAR, J

MAY 2, 2024/yg