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

Reserved on: 19 March 2026
Pronounced on: 6 April 2026

\+ LPA 349/2021, CM APPL. 33731/2021

GOVERNMENT OF NCT OF DELHI .....Appellant
Through: Mr. Sameer Vashisht, SC CIVIL, GNCTD, Ms. Harshita Nathrani, Mr. Aryaman Vachher, Advocates

versus

NAJMA AND ORS. .....Respondents
Through: Mr. Gaurav Jain, Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

% **JUDGMENT**
06.04.2026

C. HARI SHANKAR, J.

A. The *lis*

1. This case requires us to revisit, painfully, a dark period in our history – the COVID-19 pandemic. It throws up, for consideration, the issue of whether an assurance extended by the Chief Minister of Delhi, in a press conference, as a step towards enforcement of the restrictions on public movement of persons put in place in the wake of COVID, is unenforceable in law, absent a formal written policy decision to that effect.

2. A learned Single Judge of this Court has answered the issue in the negative, invoking the principles of promissory estoppel and legitimate expectation. The Delhi Government[1] is in appeal.

B. Facts

3. COVID struck India in March 2020. In the wake of the calamity, the likes of which had not been seen in foreseeable history earlier and, hopefully, would never have to be seen in future, the Government, both at the Centre and State level, put into effect a slew of measures to ensure minimal exposure of the populace to the pandemic and to persuade all to remain indoors as far as possible. As is well known, the Hon'ble Prime Minister himself came on air to prohibit movement of persons outside their homes for the period 25 March 2020 to 31 May 2020. It merits mention, while the lockdown was relaxed in phases, the proscription on inter-state travel was lifted with effect from 1 June 2020.

4. State Governments were not lagging behind. The then Chief Minister of Delhi, Mr. Arvind Kejriwal, addressed the public through a press conference held on 29 March 2020, and the dispute, in these proceedings, relates to a single utterance made by him during the press conference. We deem it appropriate to reproduce, in vernacular as well as in English, the statement made by the Chief Minister, around which the dispute revolves:

In vernacular

[1] Government of National Capital Territory of Delhi, hereinafter referred to as "the State"

"मकान मालेको को मैंने कहा था कुछ दिन पहले कि अगर आप मकान मालिक हैं, आपका किरायेदार गरीब है वो किराया नहीं दे पा रहा, उसका किराया दो-तीन महीने के लिए postpone कर देना, अभी उससे किराया मत लेना।

आज मैं आपसे, सारे दिल्ली के मकाल मालिकों से अपील कर रहा हूँ -अगर आप मेरे को अपना बेटा मानते हो, अगर आप मेरे को अपना भाई मानते हो, तो आज जितने मकान मालिक हैं, सब लोग अपने-अपने किरायेदारों से बात करना और उनको कहना कि चिंता मत करो, हम आपके साथ है। हम आपको किराया देने के लिए मजबूर नहीं करेंगे। सब लोग जाके आज उनको आश्वासन देना।

कहीं-कहीं से ये खबर आ रही है कि कुछ मकान मालिक उनको जबरदस्ती कर रहे हैं इसलिए वो छोड़-छोड़ के जा रहे हैं। उनसे बिलकुल जबरदस्ती मत करना। आपका किराया आप postpone कर दो।

महीने-दो-महीने के बाद जब ये कोरोना से, मान लो, जब ये सारा झंझट खतम हो जायेगा, उसके बाद मैं आपको, अगर कोई किरायेदार गरीबी के वजह से आपका किराया नहीं दे पा रहा, मैं आपको आश्वासन देता हूँ सरकार उसका भुगतान करेगी। जितने किरायेदार हैं, अगर जो-जो किरायेदार गरीबी की वजह से थोड़ा बहुत किराया नहीं दे पायेंगे, उनके बारे में मैं कह रहा हूँ।

लेकिन अभी कोई मकान मालिक जबरदस्ती नहीं करेगा, और अगर कोई जबरदस्ती करेगा, मकान मालिक तो फिर सरकार सख्त action भी लेगी उनके खिलाफ।"

In English

"A few days ago, I had asked the landlords to postpone the rent of impoverished tenants unable to pay rent for 2-3 months and not take immediate payment.

Today, I am appealing to you and the landlords of entire Delhi-if you consider me your son or brother then all the landlords must talk to their tenants and ask them to rest assured that you are with them and won't force them to pay rent. Today, all of you must go and give assurance to them.

There has been news from some places that a few landlords are forcing their tenants due to which they are evacuating and leaving. Please don't force them. Kindly postpone their rent.

In a month or two when this Corona and let's assume after this entire mess is over, *if a tenant has been unable to pay rent due to poverty, I assure you the Government will pay for it.* I am talking about those tenants who may be unable to pay some of their rent due to lack of means.

However, no landlord will force them right now and if they do so then the Government will take strict action against them."

(Emphasis supplied)

5. Do the italicized words in the above statement of the Chief Minister constitute a promise, enforceable, *proprio vigore*, against the State and in favour of citizens? As we have already noted, a learned Single Judge of this Court has, *vide* judgment dated 22 July 2021, answered the question in the affirmative, relying on the principles of promissory estoppel and legitimate expectation.

6. Following the conclusion that the words of the Chief Minister, as italicized above, constituted an enforceable promise in law, the impugned judgment concludes with the following directions:

> "110. In view of the above factual and legal discussion, the following directions are issued:
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> i. The GNCTD would, having regard to the statement made by the CM on 29th March, 2020, extracted in paragraph no. 3 above, to landlords and tenants, take a decision as to the implementation of the same within a period of 6 weeks;
>
> ii. The said decision would be taken, bearing in mind the larger interest of the persons to whom the benefits were intended to be extended in the said statement, as also any overriding public interest concerns.
>
> iii. Upon the said decision being taken, the GNCTD would frame a clear policy in this regard.
>
> iv. Upon the said decision being taken, if a Scheme or Policy is announced, the Petitioners' case be considered under the said Scheme/Policy as per the procedure prescribed therein, if any. Remedies against any decision taken are left open."

7. Aggrieved thereby, the State is in appeal.

8. We have heard Mr. Sameer Vashisht, Standing Counsel (Civil) for the State, and Mr. Gaurav Jain, learned Counsel for the respondents, at length.

C. The Impugned Judgment

9. Six petitioners petitioned this Court, by way of WP (C) 8956/2020[2]. Of these, five were daily wage labourers, who claimed to be in impecunious circumstances, and unable to pay, to their landlords, the rents demanded. The sixth petitioner was a landlord. All petitioners sought issuance of a mandamus, to the State, to disgorge the rent payable against the tenanted premises, effectively seeking, therefore, enforcement of the assurance held out by the Chief Minister to the public in his press conference of 29 March 2020.

10. Though the State also contested, before the learned Single Judge, the maintainability of the writ petition, the learned Single Judge negatived the contention and held the writ petition to be maintainable. Before us, Mr. Vashisht did not reiterate the objection. In any event, we find no reason to differ with the learned Single Judge. The writ petition was clearly maintainable.

11. On merits, the learned Single Judge first examines, in the impugned judgment, the position regarding promissory estoppel as it obtains in the United Kingdom and in India. We have, in this country, an enviable body of precedent on the issue, thereby obviating the necessity of referring to any foreign judgments. Apropos the legal position as it obtains in India, the learned Single Judge refers to the decisions in ***Collector of Bombay v. Municipal Corporation of the City of Bombay***[3], ***Motilal Padampat Sugar Mills Co. Ltd v. State of Uttar Pradesh***[4], ***Union of India v. Indo-Afghan Agencies***[5], ***State of***

[2] **Najma & ors v. Government of National Capital Territory of Delhi**
[3] **AIR 1951 SC 469**
[4] **(1979) 2 SCC 409**

Punjab v. Nestle India Ltd[6], ***State of Arunachal Pradesh v. Nezone Law House***[7], ***Manuelsons Hotels Pvt Ltd v. State of Kerala***[8], ***State of Jharkhand v. Brahmputra Metallics Ltd***[9] and proceeds, thereafter, to cull out the principles emerging therefrom. Thereafter, the learned Single Judge proceeds to hold that the issue was required to be examined in the context of the fact that the statement, the enforceability of which was in question, was an assurance and promise made by a Constitutional functionary such as the Chief Minister, made with the purpose of limiting migration of people from Delhi, and that presumably some tenants and landlords might have altered their positions based on the assurance. The learned Single Judge enumerates the following salient features of the present case, in the impugned judgment:

> "(1) Exceptional circumstances of the Covid-19 Pandemic.
>
> (2) Extreme distress being faced by migrant labourers and blue-collar workers and employees.
>
> (3) A clear promise/assurance made by the CM.
>
> (4) No positive policy to implement the said promise/assurance given by the GNCTD.
>
> (5) No contrary policy implemented by the Government, placed before the court.
>
> (6) No decision taken to not implement the said promise/assurance that was given by the CM.
>
> (7) The exception of public interest having not been invoked for the non-implementation of the promise/assurance."

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[5] **AIR 1968 SC 718**
[6] **(2004) 6 SCC 465**
[7] **(2008) 5 SCC 609**
[8] **(2016) 6 SCC 766**
[9] **2020 SCC OnLine SC 968**

12. The learned Single Judge goes on to hold that the Government could not have remained silent on the promise/assurance held out by the Chief Minister without taking a decision whether to implement it, or not implement it. In times of distress, observes the impugned judgment, elected representatives of the people, especially those holding posts of heads of the government, are expected to make responsible assurances and promises, which can be believed by the citizenry. It could not be argued that no one would take the words of the Chief Minister seriously, or believe what he said. At the very least, the citizens could entertain a legitimate expectation that the promise held out by the Chief Minister would be honoured.

13. The learned Single Judge goes on to hold that the lack of any decision regarding the assurance given by the Chief Minister, rather than any decision taken in that regard, was arbitrary. In the event that the State had decided not to act on the basis of the said assurance, it owed a responsibility to disclose the reasons for the decision. The learned Single Judge emphasizes, in this context, the fact that the decision affected the fundamental rights of citizens, as it dealt with the right to shelter during the pandemic. Applying the equitable doctrine of promissory estoppel, the learned Single Judge holds the State responsible for failing to take any decision on the assurance/promise held out by the Chief Minister. In this regard, the learned Single Judge has sought to distinguish the judicial authorities cited by the State before her, as those were cases in which a policy decision, contrary to the assurance/promise, had been announced.

The State had failed to provide any explanation for failing to take any decision on the promise or assurance held out by the Chief Minister in a press conference consciously held in the background of the lockdown announced pursuant to the COVID pandemic.

14. The learned Single Judge has distinguished the promise made by the Chief Minister, in the press conference, with statements made in an election rally. The Chief Minister was presumed to know all implications, including the number of persons who would be affected and the financial outlay involved, while making the promise. The citizen was entitled to believe that, while making the promise, the Chief Minister was speaking on behalf of the Government.

15. The learned Single Judge has also held the reliance, by the State, on Article 166[10] of the Constitution of India, to be misplaced. The learned Single Judge holds that a common man, or a citizen, would believe that the statement of the Chief Minister could be relied upon and trusted. Invoking ***Motilal Padampat Sugar Mills***, the learned Single Judge holds that a statement or representation, even made by the Chief Secretary to the Government, while discharging Governmental functions, would, even by virtue of the position held by him, be presumed to be within the scope of his authority and

[10] **166. Conduct of business of the Government of a State.** –
(1) All executive action of the Government of a State shall be expressed to be taken in the name of the Governor.
(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.
(3) The Governor shall make rules for the more convenient transaction of the business of the Government of the State, and for the allocation among Ministers of the said business in so far as it is not business with respect to which the Governor is by or under this Constitution required to act in his discretion.

enforceable in law. *The final enforceable decision would have to be in the name of the Governor*. However, the learned Single Judge observes that, in the present case, *it is the indecision of the State, following the promise held out by the Chief Minister, which is under challenge* and, therefore, Article 166 of the Constitution would not apply. The learned Single Judge, therefore, holds that, even absent any formal policy or order by the State, the very assurance given by the Chief Minister in a press conference, on a public platform, would create a valuable and legal right, applying the principle of promissory estoppel. Non-consideration of the promise thus held out was amenable to being tested on the anvil of the doctrine of legitimate expectation. Quoting, thereafter, from a passage from Principles of Administrative Law by Prof. M.P. Jain and Prof. S.N. Jain, the learned Single Judge finally opines "that the promise/assurance/representation given by the CM clearly amounts to an enforceable promise, the implementation of which ought to be considered by the Government".

16. Thereafter, before issuing the operative directions already reproduced in para 6 *supra*, the learned Single Judge observes as under:

> "109. While holding that the assurance/promise given by the CM is enforceable, both on the basis of the doctrines of promissory estoppel and legitimate expectation, the relief would have to be moulded keeping in mind the various factors as set out below:
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> • Firstly, the assurance given by the CM has to be considered by the Government and a decision has to be taken whether to implement or not implement the same;
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> • Secondly, the bona fides of the said petitioners need to be verified. The material particulars in respect of each of

> the petitioners, the premises which they have either rented out or have taken on rent, the amounts which they had paid during the lockdown period, the loans which have been taken, etc. would need to be verified. Further, owing to the decision of the learned Division Bench in ***Gaurav Jain v. Union of India***[11], this Court is also concerned about the bona fides of the petitioners themselves owing to the lack of material particulars.
>
> • The pleadings in the present case, especially the rejoinder, also gives an impression to this Court that the intention is to sensationalise the issue rather than to actually seek redressal of a grievance."

17. Thereafter, the directions, reproduced earlier in this judgment, follow.

D. Rival Contentions

I. Submissions of Mr. Sameer Vashisht

18. Mr. Vashisht commenced his submissions by stating that the writ petition filed by the respondents was in fact not even maintainable, as it sought enforcement of a statement made by a politician, without any supportive law or policy of the Government. The principles of promissory estoppel and legitimate expectation would not, he submits, apply in such a situation. The statement of the Chief Minister was made, as he would submit, "in the air", unfortunately. There was no contract between the State and the respondents, which could be enforced in the manner sought in the writ petition.

[11] **2020 SCC OnLine Del 652**

19. A further preliminary submission, advanced by Mr. Vashisht, is that the learned Single Judge has directed the State to frame a policy, which is impermissible in law. He submits that no writ of mandamus can issue to the Government to frame a policy, for which purpose he relies on ***Asif Hameed v. State of J & K***[12].

20. Mr. Vashisht further pleads issue estoppel, for which purpose he relies on a judgment, dated 15 June 2020, by a Division Bench of this Court in ***Gaurav Jain v. Union of India***.

21. On merits, Mr. Vashisht submits that the learned Single Judge was in error in holding that the Chief Minister had held out any promise to the public and, effectively, directing enforcement of the promise so held out. To substantiate his plea that such directions could never have been issued, Mr. Vashisht relies on ***Union of India v. Ganesh Rice Mills***[13], para 23 of ***State of Karnataka v. K.K. Mohandas***[14] and paras 3, 25, 28 to 30, 33, 40 to 42 and 45 of ***Nestle***. He submits that no law or executive instruction had been issued, with the approval of the Lieutenant Governor[15] as required by Article 166 of the Constitution of India, to the effect that the rent of defaulting tenants, whatever be their financial condition, would be borne by the State.

22. Mr. Vashisht has also emphasised the circumstances in which the statement of the Chief Minister, of which the respondents sought

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[12] **1989 Supp (2) SCC 364**
[13] **(1998) 9 SCC 630**
[14] **(2007) 6 SCC 484**
[15] "LG" hereinafter

enforcement, was made. He points out that, consequent to the outbreak of COVID, the Hon'ble Prime Minister had directed a complete lockdown, with the public being prohibited from venturing outside, and concomitant closure of all private and government offices, except those which were rendering essential services. A meeting, chaired by the Hon'ble Prime Minister followed, pursuant to which the National Disaster Management Authority[16] issued an Order on 24 March 2020, directing complete restriction of movement of persons for a period of 21 days with effect from 25 March 2020. Following this, the Delhi Disaster Management Authority[17] issued an order on 25 March 2020 directing implicit compliance with the directives of the NDMA. The Chief Minister, thereafter, addressed the people of Delhi in a press conference on 25 March 2020, in which, among other things, landlords were requested not to harass tenants who were battling the COVID pandemic. Owing to fear of the pandemic, several migrant labourers gathered at the State border, to leave for their respective homes. As this led to great risk of spreading of the COVID virus, the Chief Minister, on 29 March 2020, made the statement which forms a subject matter of the present controversy. We deem it appropriate to reproduce the exact manner in which the written submissions of the State refer to this statement:

> "f. On 29.03.2020, the Hon'ble Chief Minister held a press conference and requested the people of the NCT to abide by the Hon'ble Prime Ministers request of staying at home. In this context, he also appealed/requested the landlords not to compel tenants to leave their homes on account of non-payment of rent and said that if the situation continues for 2-3 months and a tenant

[16] "NDMA" hereinafter
[17] "DDMA" hereinafter

is unable to pay owing to poverty, *then the Government would consider making some payment on their behalf*."

We are afraid the reference, to the statement made by the Chief Minister, as contained in the afore-extracted paragraph from the written submissions of the State, is somewhat misleading. The statement of the Chief Minister was not that the Government "*would consider making some payment*" on behalf of the tenants who are in default of payment of rent, but that, where the default was owing to poverty and incapacity to pay the rent, the State *would pay the rent* on behalf of the tenants. Nothing was left, therefore, for "consideration". To be fair to him, Mr. Vashisht, on our expressing our unhappiness at this statement of fact, as contained in the written submissions of the State, requested us to ignore it and stated that he would argue on the statement of the Chief Minister as actually made.

23. The written submissions of the State thereafter proceed to detail developments which took place after 29 April 2020. They are not of particular relevance to the controversy at hand, except for the assertion that, on 29 April 2020, the Central Government relaxed the restriction on inter-State level of stranded persons and directed State Governments to develop protocols to send and receive such persons. Even while the lockdown was, thereafter, extended by order dated 1 May 2020, till 17 May 2020, the relaxation for movement of stranded migrant workers, pilgrims, tourists and other persons, was maintained. The Ministry of Home Affairs[18] also issued orders permitting travel through special trains operated by the Railways. The lockdown was

[18] "MHA" hereinafter

further extended by order dated 3 May 2020 for two weeks with effect from 4 May 2020, but, simultaneously, a detailed Standard Operating Procedure[19] was notified, for movement of stranded persons from and to Delhi. This was followed by a formal notification dated 11 May 2020 issued by the MHA. By these measures, as also a further order dated 14 May 2020 issued by the Central Government, movement of stranded migrant workers and labourers by train and bus was facilitated. On 17 May 2020, the first notification was issued by the Central Government relaxing the lockdown restrictions. Following this, on 18 May 2020, the DDMA issued a notification, relaxing the direction to landlords not to collect rent from their tenants, in view of the reduction of intensity of the COVID pandemic.

24. Mr. Vashisht submits that, therefore, the circumstance which prompted the Chief Minister to make the statement, of which the respondents seek enforcement, on 29 March 2020, i.e. restriction on movement of stranded migrant labourers and workers, was no longer in existence after 29 April 2020 and, therefore, no further statement, continuing the assurance contained in the statement dated 29 March 2020, was made by the Chief Minister.

25. Mr. Vashisht submits that, in law, a mere statement, sans anything more, cannot form the basis of an enforceable right against the Government. Inasmuch as the statement made on 29 March 2020 was never converted into a formal decision in the shape of a policy

[19] "SOP" hereinafter

document of the Government, he submits that no writ of mandamus could issue to enforce the statement.

26. Similarly, he submits that the doctrine of legitimate expectation has been erroneously invoked by the learned Single Judge. According to Mr. Vashisht, the foundational basis for invoking the doctrine is the conversion of a representation/statement/assurance into a definite policy. Equally, for application of the doctrine of promissory estoppel, he submits that an assurance/representation, in the form of a policy document of the Government, coupled with the intention to bring into existence a legal relationship, must exist. The pleadings in the writ petition, he submits, do not even make out a *prima facie* case of existence of these factors. There is no material on the basis of which it could be found that the petitioners were in fact migrant labours who had come to Delhi from other states or that, relying on the statement of the Chief Minister, they decided to stay back in Delhi and, thereby, altered their position to their prejudice. The impugned judgment, which proceeds without considering these facts is, therefore, he submits, unsustainable.

27. The doctrine of legitimate expectation, submits Mr. Vashisht, can be invoked only where there exists a legal obligation, and not merely a wish, a desire, a pious hope, or even a moral obligation. The obligation, of which enforcement is sought, he submits, must be founded on the sanction of law or custom or established procedure followed in the regular and natural sequence. He relies, for this

purpose, on paras 21 to 23 of ***State of Bihar v. Sachindra Narayan***[20] and paras 8 to 15 of ***Bannari Amman Sugars Ltd v. CTO***[21].

II. Submissions of Mr. Gaurav Jain

28. Mr. Gaurav Jain, in reply, draws our attention to para 17 of the impugned judgment, in which the learned Single Judge has noted the contention of the State that the statement of the Chief Minister, dated 29 March 2020, "could at best be construed as an assurance by a CM". He submits that, therefore, the State acknowledges and admits that the statement was, at the very least, an assurance.

29. Mr. Jain submits that the circumstances in which the statement was rendered are of extreme significance, as the statement was intended at providing succour to persons who were desperate to save their life. This position, he submits, continued till October-November 2020. Mr. Jain submits that the learned Single Judge has held, unexceptionably, that the statement was in the nature of a promise affecting the right of the respondents to life, livelihood and residence and had, therefore, to be adhered to.

30. Mr. Jain contests Mr. Vashisht's contention that the promise extended by the Chief Minister was not supported by any policy or other statutory instrument. He submits that the provisions of the Disaster Management Act, 2005 and Epidemic Diseases Act, 1897, imminently empowered the State to make such a promise. Mr. Jain

[20] **(2019) 3 SCC 803**
[21] **(2005) 1 SCC 625**

also relies on Order No. 122-A, dated 29 March 2020, issued by the DDMA, and specifically emphasises the following paras from the said Order:

> "10. Wherever the workers, including the migrants, of living in rented accommodation, the landlords of those properties shall not demand payment of rent for a period of one month.
>
> 11. If any landlord is forcing labourers and students to vacate their premises, they shall be liable for action under the Act.
>
> The District Magistrates & District Deputy Commissioners of Police, Incident Commanders & counterpart Assistant Commissioners of Police and SHOs of respective jurisdiction will be personally liable for implementation of the above directions and lockdown measures issued under the aforesaid Orders as enclosed."

Mr. Jain submits that the statement of the Chief Minister was only towards implementation of this Order of the DDMA, as landlords could not be compelled to allow tenants to stay in rented premises without paying any rent. It was for this reason, he submits, that the State undertook to bear the burden of the rent payable to the landlords. It was not, therefore, as though the Chief Minister had made his statement "in the air", or unsupported by any policy or statute, as Mr. Vashisht would seek to contend. Mr. Jain submits that the State cannot seek to enforce Order No 122-A issued by the DDMA and avoid the statement made by the Chief Minister.

31. Mr. Jain also relies on Article 300-A[22] of the Constitution of India.

[22] **300-A. Persons not to be deprived of property save by authority of law**. – No person shall be deprived of his property save by authority of law.

III. Submissions of Mr. Vashisht in rejoinder

32. In rejoinder, Mr. Vashisht nearly submits that the DDMA Order No 122-A was extended only till 17 May 2020 as, after the said date, movement of the migrants was permitted.

E. Analysis

I. What does the impugned judgment direct?

33. Facially, the directions in the impugned judgment only require the State to take a decision as to implementation of the statement made by the Chief Minister on 29 March 2020. Also, the impugned judgment, at more points than one, observes that the Court was concerned with the *indecision*, on the part of the State, regarding whether to implement, or not to implement, the assurance held out by the Chief Minister on 29 March 2020 that the State would bear the rent of migrants who were unable to pay rent owing to poverty. However, the impugned judgment, in para 108, also holds, with some degree of finality, that "the promise/assurance/representation given by the CM *clearly amounts to an enforceable promise,* the implementation of which ought to be considered by the Government." The tenor of the impugned judgment is, therefore, unmistakably that the State was bound to bear the rent of the poverty-stricken migrants, and were only required to take a decision on the modality of implementation.

34. The issue of whether, therefore, the statement of the Chief Minister, dated 29 March 2020, gave rise to an enforceable promise that the State would bear the rent of the migrants, therefore, squarely arises for consideration.

II. Was the statement of the Chief Minister, forming subject matter of dispute, merely "a statement made by a politician"?

35. We reject, outright, the opening submission of Mr. Vashisht that the assurance to bear the rent of the migrants, as contained in the statement made by the Chief Minister on 29 March 2020 in the press conference, was merely a "statement made by a politician". Facially, Mr. Vashisht is correct, inasmuch as the Chief Minister was unquestionably a politician. What we understood from Mr. Vashisht's submission is, however, that politicians often make statements, not all of which are to be taken seriously and, at the very least, not all of which are enforceable in a court of law. If that is what Mr. Vashisht meant, we are clear in our mind that the assurance made by the Chief Minister in his press conference dated 29 March 2020, that the State would bear the rent of poverty-stricken migrants who were unable to pay rent, is not one such.

36. Politicians make statements, and statements. Indeed, the very *raison d' etre* of a politician is to speak, ideally for and in the welfare of the public. There is, however, a distinction between a statement made by politician before he is elected to public office, and the statement made by the politician thereafter. During election propaganda, statements made by candidates aspiring to success in the

election are made without even knowing whether they would succeed in the election, or being conscious of the circumstances which would face them in the event of their success and election to public office. Such statements are made without even being aware of the ground realities which would face the candidates in the event of their election and as to whether they would be in a position to fulfil the promise that they make. At the highest, therefore, failure to abide by the promises made by a politician prior to his election to public office may only affect, adversely, his public image, and, perhaps, future success in elections.

37. A statement made by an elected representative of the people, such as the Chief Minister, on a public podium is qualitatively different. Such a statement, therefore, wears an entirely different complexion, as compared to a statement made by the same politician before his election to public office. The statement, in the present case, is not, therefore, merely a statement by a politician, but a statement by the Chief Minister of the State, and cannot, therefore, be lightly dismissed.

38. We cannot, therefore, decide the present *lis* on the premise that the assurance held out by the Chief Minister in his press conference dated 29 March 2020 was merely a "statement made by a politician", of which no serious note was required to be taken.

39. *Whether, however, the assurance contained in the statement could translate into a mandamus in a court of law is, however, a*

somewhat more nuanced issue, with which we are essentially concerned.

III. A preliminary point

40. The prayer clause, in the writ petition, read thus:

> "In view of the above facts and circumstances, it is most respectfully prayed that this Court may be pleased to:
>
> a. Pass an appropriate writ of mandamus or order directing the Government of NCT of Delhi (R1) to honour the promise made by its Chief Minister (R2) on 29.03.2020.
>
> b. Make the above writ or order, if in favour of the Petitioners, applicable to the people who have already written to R2, and other tenants and landlords placed in a situation similar to that of Petitioners.
>
> c. Pass any other direction, order or writ is this Court may deem fit in the facts and circumstances of the instant case."

41. The impugned judgment directs the State to take a decision as to implementation of the statement made by the Chief Minister on 29 March 2020, without restricting the direction to any particular part or facet of the statement.

42. The statement of the Chief Minister, dated 29 March 2020, however, held out two promises, not one. The first was that landlords could not compel migrant tenants, occupying rented premises, to pay the rent, during the period the lockdown remained in force. The second was that the State would pay the said rent.

43. *There is a qualitative difference between these assurances, apropos their enforceability. This is because, while the first assurance was preceded by the DDMA Order No. 122-A of the same day, the second was not. The DDMA Order No. 122-A proscribed collection of rent by landlords from impecunious migrant tenants during the period the lockdown remained in force, but did not contain any assurance that the rent would be paid by the State*.

44. The prayer clause in the writ petition, and the relief ultimately granted by the learned Single Judge in the impugned judgment, covers both these assurances. They are not limited to the assurance, by the State, to disgorge the rent payable by the migrant tenants to their landlords.

IV. The position in law

45. Before addressing these issues in greater detail, we may, even at this juncture, set out what we find the legal position to be.

46. The law, as per discussion hereinafter would reveal, would permit enforcement of the first assurance, proscribing collection of rent by landlords from migrant tenants during the period of the lockdown, as it was not merely an assurance contained in a statement of the Chief Minister, but was also contained in the DDMA Order No. 122-A of the same date, which was never challenged.

47. However, the second assurance, i.e., that the rent would be paid by the State, is not a legally enforceable assurance, even applying the principles of promissory estoppel and legitimate expectation. This is because the assurance was restricted merely to a statement made during the press conference held by the Chief Minister on 29 March 2020, and was never reduced to writing in the form of any official document or communication made known to the public.

48. A mere statement made by the Chief Minister would not be enforceable in law, even if the citizens to whom it was made believed it to be so. Inasmuch as the assurance to pay the rent, out of State funds, was not translated to any written document, Office Memorandum, Notification, Circular, or any other instrument having the force of law, it cannot be enforced merely because it was made in a statement during the press conference. That, as we see it, is the law which emerges from the decisions of the Supreme Court on the point.

49. In fact, the Supreme Court goes to the extent of holding that such a statement does not even constitute a "promise", apart from independently ruling that it is not enforceable on the principle of promissory estoppel.

V. Examining the legal position

50. Let us review the circumstances which preceded, and succeeded, the assurance extended by the Chief Minister in his statement dated 29 March 2020. COVID struck in mid March 2020.

The Prime Minister announced a nationwide lockdown on movement of the public, save in certain exceptional circumstances, for the period 25 May 2020 to 31 May 2020. During this period, the DDMA, in its Order dated 29 May 2020, directed landlords not to insist on payment of rent by migrants for a period of one month or evict them from the tenanted premises in their occupation, so as to ensure that the migrant tenants were not on the streets. The Order did not, however, contain any assurance that the rent payable by the migrants to the landlords would be paid by the State. The Chief Minister, however, in his press conference held on the same day, i.e. 29 May 2020, did extend such an assurance, and it is that assurance which forms the nub of controversy.

51. The press conference was not followed, however, by the issuance of any official document, such as an Office Memorandum, Notification, Public Notice or Circular, reducing the assurance held out by the Chief Minister to writing. Why, is not for us to hazard any view, but the circumstance was, at the least, extremely unfortunate. We are clear in our mind that the State Government of the day ought to have translated the assurance given by the Chief Minister into a written document, so that it would acquire legal form and sanctity.

52. That, however, never happened. Resulting in our requiring to decide whether the learned Single Judge was correct in holding that the assurance, *only contained as it was in the statement of the Chief Minister during the press conference*, is enforceable as such.

53. While we have no doubt that the migrants, and their landlords, who may have heard the statement, legitimately believed in its enforceability, the belief of the migrants and the landlords cannot translate into authority, on the part of the Court, to issue a writ of mandamus, commanding its compliance. A mandamus can issue only to compel performance of a duty which the State, or public authority, is required, in law, to perform. If no such legal liability exists, no writ of mandamus can issue.

54. We are clear, in our mind, that the fact that the statement was made consequent on the onset of COVID, and the circumstances in which it was made, cannot influence us in compelling its performance. Else, the law would become totally subjective, and statements could be made enforceable, or not enforceable, merely on the basis of the circumstances in which they were made. That, in our view, cannot be the law. Expressed otherwise, we cannot bind the State to the assurance contained in the statement of the Chief Minister merely because of the circumstances in which it was made, if said assurance is not, otherwise, enforceable in law.

55. A "promise", in law, has its own connotations, as it becomes enforceable against the promisor. While there may not be any substantial difference, in this context, between an "assurance" and a "promise", a "promise", when made by the Government to the citizens, has its own indicia.

56. We proceed, now, to examine what the Supreme Court holds, on the issue.

57. ***Ganesh Rice Mills***

57.1 This distinction is starkly reflected in the decision in ***Ganesh Rice Mills*** which, though a short, order, is clear and unequivocal:

> "1. Leave granted.
>
> 2. The only point decided by the High Court is that the Finance Minister's statement on the floor of the House must be held to be binding and the Union was stopped[23] from realising the disputed cess from the appellants. It has been stated that the writ petitioner had acted to his prejudice on the basis of the promise made by the Finance Minister. We are of the view that *speech made in Parliament by the Finance Minister cannot be treated as a promise or representation made to the writ petitioner* and the *principle of promissory estoppel was wrongly applied by the High Court*. No case of promissory estoppel has been made out on the facts of this case.
>
> 3. In that view of the matter, the judgment under appeal is set aside. The appeal is allowed. There will be no order as to costs."

57.2 ***Ganesh Rice Mills*** holds, clearly and unequivocally, that *a speech made in Parliament by the Finance Minister is not a promise* or representation to the petitioner before the Supreme Court, as would justify applying the principle of promissory estoppel. While the nature of the statement made by the Finance Minister on the floor of the House, the circumstances in which it was made, whether it was directed towards the appellants before the Supreme Court, are unknown, it appears clear, from the pronouncement, that such a

[23] *sic* estopped?

statement cannot, by itself, is neither a promise, nor enforceable by applying the principle of promissory estoppel.

58. *K.K. Mohandas*

58.1 The exact circumstances in which the issue of promissory estoppel arose for consideration in ***K.K. Mohandas*** are explicit from the opening sentence in para 18 of the report in that case, which reads:

> "18. What is pleaded in this case at best is that in his Budget speech the Minister concerned had held out to the public at large that he was proposing to ban sale of toddy in the whole of the State and this had induced the plaintiffs to believe that the sales in arrack would go up resulting in their offering higher bid amounts for the right to sell arrack for Excise Year 1990-1991."

58.2 Mr. Vashisht relies on the following paragraph from the report, to contend that the reliance, by the learned Single Judge, on the principle of promissory estoppel, was misconceived:

> "23. That apart, *this Court in* ***Express Newspapers (P) Ltd. v. Union of India***[24] *has held that the principle of estoppel does not operate at the level of government policy. In* ***Union of India v. Ganesh Rice Mills*** *this Court had categorically held that a speech made in Parliament by a Minister cannot be treated as a promise or representation made to a person attracting the principle of promissory estoppel.* In ***Pine Chemicals Ltd. v. Assessing Authority***[25] this Court held that a Finance Minister's statement referring to a proposal to continue the grant of exemption from payment of sales tax for a period of ten years is merely a budget proposal which could not give rise to any right to the parties and it did not amount to a decision, order or notification extending the period of exemption which was required to found a plea based on promissory estoppel. The manner in which the courts

[24] **(1986) 1 SCC 133**
[25] **(1992) 2 SCC 683**

> below including the High Court got over the principle enunciated by these decisions leaves much to be desired.
>
> 24. Thus, *it would be seen that the plaintiffs are not entitled to found any case of promissory estoppel merely on the basis of the speech made by the Minister in the Assembly* of a proposal to ban sale of toddy in the State."
>
> (Emphasis supplied)

58.3 Mr. Vashisht is, therefore, correct in his submission that promissory estoppel does not operate at the level of Government policy. There can be no gainsaying the position, in fact or in law, that the decision to bear the rent for all migrant labourers and workers, irrespective of the circumstances in which it was taken, pertains to the realm of Government policy. At least ordinarily, therefore, the principle of promissory estoppel would not apply in such a case.

58.4 Significantly, ***K.K. Mohandas*** relies upon, and reiterates, ***Ganesh Rice Mills***.

59. ***Nestle***

59.1 ***Nestle***, as we have noted, has been cited, and relied upon, in the impugned judgment. Mr. Vashisht, however, invites reference to the following paragraphs from the report:

> "3. The circumstances under which the respondents had approached the Court chronologically commenced with an announcement made by the then Chief Minister of Punjab on 26-2-1996 while addressing dairy farmers at a State-level function, that the State Government had abolished purchase tax on milk and milk products in the State. This announcement was given wide publicity in several newspapers in the State.

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25. In other words, promissory estoppel long recognised as a legitimate defence in equity was held to found a cause of action against the Government, even when, and this needs to be emphasised, the representation sought to be enforced was legally invalid in the sense that it was made in a manner which was not in conformity with the procedure prescribed by statute.

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28. This Court rejected all the three pleas of the Government. It reiterated the well-known preconditions for the operation of the doctrine:

> (1) *a clear and unequivocal promise* knowing and intending that it would be acted upon by the promisee;
> (2) such acting upon the promise by the promisee so that it would be inequitable to allow the promisor to go back on the promise.

29. As for its strengths it was said: that the doctrine was not limited only to cases where there was some contractual relationship or other pre-existing legal relationship between the parties. *The principle would be applied even when the promise is intended to create legal relations or affect a legal relationship which would arise in future*. The Government was held to be equally susceptible to the operation of the doctrine in whatever area or field the promise is made — contractual, administrative or statutory. To put it in the words of the Court:

> "The law may, therefore, now be taken to be settled as a result of this decision, that where the Government makes a promise knowing or intending that it would be acted on by the promisee and, in fact, the promisee, acting in reliance on it, alters his position, the Government would be held bound by the promise and the promise would be enforceable against the Government at the instance of the promisee, notwithstanding that there is no consideration for the promise and the promise is not recorded in the form of a formal contract as required by Article 299 of the Constitution.
>
> *****
>
> [E]quity will, in a given case where justice and fairness demand, prevent a person from insisting on strict legal rights, even where they arise, not under any contract, but on his own title deeds or under statute.

*****

Whatever be the nature of the function which the Government is discharging, the Government is subject to the rule of promissory estoppel and if the essential ingredients of this rule are satisfied, the Government can be compelled to carry out the promise made by it."

(emphasis added)

30. So much for the strengths. Then come the limitations. These are:

(1) Since the doctrine of promissory estoppel is an equitable doctrine, *it must yield when the equity so requires.* But it is only if the Court is satisfied, on proper and adequate material placed by the Government, that overriding public interest requires that the Government should not be held bound by the promise but should be free to act unfettered by it, that the Court would refuse to enforce the promise against the Government.

(2) No representation can be enforced which is prohibited by law in the sense that the person or authority making the representation or promise must have the power to carry out the promise. If the power is there, then subject to the preconditions and limitations noted earlier, it must be exercised. Thus, if the statute does not contain a provision enabling the Government to grant exemption, it would not be possible to enforce the representation against the Government, because the Government cannot be compelled to act contrary to the statute. But if the statute confers power on the Government to grant the exemption, the Government can legitimately be held bound by its promise to exempt the promisee from payment of sales tax.

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33. Of course, it was also found that the representator had no authority to make the representation it had. To that extent the decision could not be said to have deviated from the earlier pronouncements of the law.

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40. The case of ***Kasinka Trading v. Union of India***[26] cited by the appellant is an authority for the proposition that the mere issuance of an exemption notification under a provision in a fiscal statute such as Section 25 of the Customs Act, 1962, could not create any promissory estoppel because such an exemption by its very nature is susceptible to being revoked or modified or subjected to other conditions. In other words, there is no unequivocal representation. The seeds of equivocation are inherent in the power to grant exemption. Therefore, an exemption notification can be revoked without falling foul of the principle of promissory estoppel. It would not, in the circumstances, be necessary for the Government to establish an overriding equity in its favour to defeat the petitioner's plea of promissory estoppel. The Court also held that the Government of India had justified the withdrawal of exemption notification on relevant reasons in the public interest. Incidentally, the Court also noticed the lack of established prejudice to the promises when it said:

> "The burden of customs duty etc. is passed on to the consumer and therefore the question of the appellants being put to a huge loss is not understandable."

(See also ***Shrijee Sales Corpn. v. Union of India***[27] and ***STO v. Shree Durga Oil Mills***[28] .) We do not see the relevance of this decision to the facts of this case. Here the representations are clear and unequivocal.

41. ***Amrit Banaspati Co. Ltd. v. State of Punjab***[29] is an example of where despite the petitioner having established the ingredients of promissory estoppel, the representation could not be enforced against the Government because the Court found that the Government's assurance was incompetent and illegal and "a fraud on the Constitution and a breach of faith of the people". This principle would also not be applicable in these appeals. No one is being asked to act contrary to the statute. What is being sought is a direction on the Government to grant the necessary exemption. The grant of exemption cannot be said to be contrary to the statute. The statute does not debar the grant. It envisages it.

42. Although the view expressed by two Judges in ***Jit Ram***[30] has been disapproved in ***Godfrey Philips***[31] it was ostensibly resuscitated in ***I.T.C. Bhadrachalam Paperboards v. Mandal***

[26] **(1995) 1 SCC 274**
[27] **(1997) 3 SCC 398**
[28] **(1998) 1 SCC 572**
[29] **(1992) 2 SCC 411**
[30] **Jit Ram Shiv Kumar v. State of Haryana, (1981) 1 SCC 11**
[31] **Union of India v. Godfrey Philips India Ltd, (1985) 4 SCC 369**

Revenue Officer, A.P.[32] In that case the State Government had the power to remit assessment under Section 7 of the Andhra Pradesh Non-Agricultural Lands Assessment Act, 1963. Section 11 of that Act provided for exemption to be made by an order of the State Government which was required to be published in the Andhra Pradesh Gazette prior to which the order had to be laid on the table of the Legislative Assembly. The Court construed the provisions of the State Act and came to the conclusion that the nature of the power under Section 11 did not amount to delegated legislation but conditional legislation. It was held that:

> "If the statute requires that a particular act should be done in a particular manner and if it is found, as we have found hereinbefore, that the act done by the Government is invalid and ineffective for non-compliance with the mandatory requirements of law, it would be rather curious if it is held that notwithstanding such non-compliance, it yet constitutes a 'promise' or a 'representation' for the purpose of invoking the rule of promissory/equitable estoppel. Accepting such a plea would amount to nullifying the mandatory requirements of law besides providing a licence to the Government or other body to act ignoring the binding provisions of law. Such a course would render the mandatory provisions of the enactment meaningless and superfluous. Where the field is occupied by an enactment, the executive has to act in accordance therewith, particularly where the provisions are mandatory in nature. There is no room for any administrative action or for doing the thing ordained by the statute otherwise than in accordance therewith. Where, of course, the matter is not governed by a law made by a competent legislature, the executive can act in its executive capacity since the executive power of the State extends to matters with respect to which the legislature of a State has the power to make laws (Article 162 of the Constitution). The proposition urged by the learned counsel for the appellant falls foul of our constitutional scheme and public interest. It would virtually mean that the rule of promissory estoppel can be pleaded to defeat the provisions of law whereas the said rule, it is well settled, is not available against a statutory provision. The sanctity of law and the sanctity of the mandatory requirement of the law cannot be allowed to be defeated by resort to rules of estoppel. None of the decisions cited by the learned counsel say that where an act is done in violation of a mandatory provision of a statute,

[32] **(1996) 6 SCC 634**

such act can still be made a foundation for invoking the rule of promissory/equitable estoppel. Moreover, when the Government acts outside its authority, as in this case, it is difficult to say that it is acting within its ostensible authority."

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45. None of these decisions has been considered in ***I.T.C. Bhadrachalam Paperboards v. Mandal Revenue Officer, A.P.*** except for a brief reference to Chandrasekhara Aiyar, J.'s judgment which was explained away as not being an authority for the proposition that even where the Government has to and can act only under and in accordance with a statute — an act done by the Government in violation thereof can be treated as a presentation to found a plea of promissory estoppel. But that is exactly what the learned Judge had said."

(Italics in original; underscoring supplied)

59.2 It is necessary to note the nature of the dispute which was before the Supreme Court in ***Nestle***. The principle of promissory estoppel, in that case, was sought to be invoked on the basis of an announcement made by the Chief Minister that the State Government had abolished purchase tax on milk and milk products in the State. Subsequently, a policy decision was taken not to abolish purchase tax, despite the statement made by the Chief Minister. It was specifically pleaded, before the Supreme Court, that abolition of tax had to be by way of an executive or legislative instrument, and not by a mere statement made by the Chief Minister.

59.3 The passages on which Mr. Vashisht relies, and which we have reproduced *supra,* themselves enunciate the following propositions:

(i) The principle of promissory estoppel would apply even if the representation, of which enforcement is sought on the said principle, is made in a manner which is not in conformity with the statute.

(ii) The principle of promissory estoppel also applies where the promise intends to create a relationship in the future.

(iii) The promise would bind, whether it is made in a field which is contractual, administrative or statutory.

(iv) If the ingredients of promissory estoppel are satisfied, the Government can be bound to the promise.

(v) Promissory estoppel, however, has to yield to equity. This would, however, apply only where the Court is satisfied, on the basis of empirical and adequate material, that overriding public interest requires that the Government be not bound by the promise.

(vi) Promissory estoppel would not apply if the promise is to perform an act prohibited by law. Any action taken in a field covered by an enactment has to be taken in accordance with the enactment itself, and a promise, envisaging performance of an act otherwise than as provided in the enactment, would be unenforceable in law.

(vii) Promissory estoppel would also not apply where the authority making the promise did not have the authority to do so.

(viii) No promissory estoppel would apply in a case such as grant of exemption, as an exemption by its very nature is capable of being revoked, modified, or subjected to conditions at a later point of time.

59.4 The learned Single Judge has, in the impugned judgment, relied on ***Nestle*** to hold that the State was bound by the assurance given by the Chief Minister, that the rent of the migrants, to their landlords, would be paid by the State.

60. ***Arvind Industries v. State of Gujarat***[33]

60.1 Before examining the correctness of this finding, we may also advert to the judgment of the Supreme Court in ***Arvind Industries***. The appellants before the Supreme Court, in that case, were manufacturers of edible oil. On 9 September 1969, the State Government issued a press note that new industries would be granted exemption from sales tax for five years from commencement of production. On 3 March 1970, statements were made by the Chief Minister and the Finance Minister of the State, on the floor of the Legislative Assembly, to the same effect. Following this, on 29 April 1970, the State Government issued a notification under Section 49(2)

[33] **(1995) 6 SCC 53**

of the Gujarat Sales Tax Act, 1969, expressing satisfaction of the State Government that circumstances existed, which made it necessary to amend the Gujarat Sales Tax Rules, 1970. Following this, Rule 42-A was introduced in the Gujarat Sales Tax Rules, granting drawback, set off or refund of the tax paid on purchase of raw materials by any new industry, which were used in the manufacture of goods for sale. This facility was, however, subject to satisfaction of certain conditions, which included obtaining of a certificate from the Commissioner of Industries, Gujarat, to the effect that the new industry had been commissioned in an area beyond 24 km from the municipal limits of Ahmedabad and Baroda and 16 km from the municipal limits of Surat, Bhavnagar, Rajkot and Jamnagar. This notification was available for a period of five years from the date of commissioning of the industry. However, by a subsequent notification dated 17 July 1971, solvent extraction of oil, as an industry, was removed from the scope of the earlier notifications.

60.2 The appellants before the Supreme Court challenged the notification dated 17 July 1971, contending that, on the basis of the promise held out by the Finance Minister and the Chief Minister of the State, and the notifications issued thereafter, the appellants had set up their solvent extraction industry and that, by the subsequent notification dated 17 July 1971, the benefit held out by the Chief Minister and the Finance Minister could not therefore be withdrawn. The principle of promissory estoppel was sought to be pressed into service.

60.3 The Supreme Court summarily rejected the argument, thus:

> "9. The appellant has been entirely unable to make out any factual basis for a case of promissory estoppel. The appellant cannot claim that merely because it had set up its industrial unit at Junagadh at a certain point of time, the fiscal laws of the State must remain unaltered from that date. *The appellant has not been able to show that some definite promise was made by or on behalf of the Government and the appellant had acted upon that promise to its detriment* and thereafter the changes effected by the notification dated 17-7-1971 have caused great prejudice to the appellant.
>
> 10. In the premises, it is not necessary to go into the question of applicability of the doctrine of promissory estoppel in the field of fiscal legislation.
>
> 11. The appeal is dismissed. There will be no order as to costs."
>
> (Emphasis supplied)

60.4 Clearly, therefore, ***Arvind Industries*** reiterates the principle that statements made by the Chief Minister and the Finance Minister on the floor of the house, even if they hold out some benefit as being made available to the citizens, do not constitute an enforceable promise in law.

61. While ***Nestlé*** tilts more towards the assessee and the industry than ***Arvind Industries***, a careful reading of the principles enunciated in ***Nestlé*** would reveal that, even on their basis, it cannot be said that the assurance contained in the press conference held by the Chief Minister on 29 March 2020, that the State would bear the rent to be paid by the migrants to their landlords, was enforceable by mandamus.

62. Unlike the assurance that landlords would not recover rent from migrant tenants during the period of lockdown, the DDMA Order No. 122-A did not envisage payment of said rent by the State. As such, the said assurance, as extended by the Chief Minister in his press conference on 29 March 2020, was not supported by any provision, statutory or executive, having the force of law. To that extent, the Chief Minister had undertaken to do something for which the law did not provide.

63. Mr Jain also sought to place reliance on the Disaster Management Act and the Epidemic Diseases Act, to contend that the assurance fell within the scope of authority of the State as envisaged in the said statutes.

64. Section 2(1)[34] of the Epidemic Diseases Act empowers the State, whenever it is visited by, or threatened with, any outbreak of any dangerous epidemic, to take such measures as the State deems necessary to prevent such outbreak or the spread of the disease. By directing landlords not to evict migrant tenants, who were not in a position to pay rent, from their premises, the requisite measures, in terms of Section 2(1) of the Epidemic Diseases Act, to prevent the spread of COVID, already stood taken by the State. The further assurance, in the press conference of the Chief Minister, that the State

[34] **2. Power to take special measures and prescribe regulations as to dangerous epidemic disease**. – (1) When at any time the State Government is satisfied that the State or any part thereof is visited by, or threatened with, an out-break of any dangerous epidemic disease, the State Government, if it thinks that the ordinary provisions of the law for the time being in force are insufficient for the purpose, may take, or require or empower any person to take, such measures and, by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons as it shall deem necessary to prevent the outbreak of such disease or the spread thereof, and may determine in what manner and by whom any expenses incurred (including compensation if any) shall be defrayed.

would pay the said rent to the landlords cannot, to our mind, be treated as necessary to prevent the spread of COVID or, therefore, be legitimized under Section 2(1) of the EDA.

65. In a similar vein, Section 38(1)[35] of the Disaster Management Act obligates the State Government to take all measures, as it deems necessary or expedient, for the purpose of disaster management. "Disaster" is defined, in Section 2(d) as meaning "a catastrophe, mishap, calamity or grave currency in any area, arising from natural or man-made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area". It goes without saying that the COVID pandemic eminently qualifies as a "disaster", within the meaning of this definition.

66. Section 38(2) of the Disaster Management Act enumerates measures which the State Government may take under Section 38(1), and is worded inclusively, meaning that the enumeration is not exhaustive. Section 38(2)(l)[36] envisages "such other matters as it deems necessary or expedient for the purpose of securing effective implementation of provisions of" the Disaster Management Act.

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[35] **38. State Government to take measures**.—
(1) Subject to the provisions of this Act, each State Government shall take all measures specified in the guidelines laid down by the National Authority and such further measures as it deems necessary or expedient, for the purpose of disaster management.

[36] (2) The measures which the State Government may take under sub-section (1) include measures with respect to all or any of the following matters, namely:—
*****
(*l*) such other matters as it deems necessary or expedient for the purpose of securing effective implementation of provisions of this Act.

Section 39(a)[37], titled "Responsibilities of departments of the State Government" obligates every department of the State Government to, inter alia, "take measures necessary for prevention of disasters, mitigation, preparedness and capacity-building in accordance with the guidelines laid down by the National Authority and the State Authority". No guidelines, laid down by the NDMA or DDMA, authorizing rent payable by the migrants to their landlords to be defrayed from the State exchequer, has been cited by Mr. Jain and, indeed, we are sanguine that there are none.

67. The assurance, by the Chief Minister, in his press conference, that the rent payable by the migrant tenants to their landlords would be paid by the State does not find support, therefore, from statute, executive instruction, or any other instrument having the force of law. The assurance was apparently made in the heat of the situation, which was unquestionably unprecedented, so as to further incentivize the migrant tenants to remain indoors, but it was without any legal authority whatsoever.

68. Order No. 122-A had been issued by the DDMA on the very day when the Chief Minister, in his press conference, assured that the State would pay the rent of the migrant workers/labourers. However, the said Order did not envisage payment of rent by the State. There is nothing, before us, to indicate that, before he extended the said assurance, the Chief Minister, or the executive authorities below him,

[37] **39. Responsibilities of departments of the State Government**. – It shall be the responsibility of every department of the Government of a State to—
(a) take measures necessary for prevention of disasters, mitigation, preparedness and capacity-building in accordance with the guidelines laid down by the National Authority and the State Authority;

had assessed the financial and other implications of the assurance, or the impact that it would have on the State exchequer. Given the position that the country found itself at that point of time, we indeed doubt whether any such exercise was even possible, let alone within the span of a single day.

69. We are, therefore, *prima facie* of the opinion that the assurance, by the Chief Minister, that the State would bear the rent of all migrants, was not made after the requisite degree of study and application of mind to all relevant aspects. The impugned judgment, too, does not say so.

70. Insofar as the decisions relied upon by the learned Single Judge are concerned, suffice it to state, without burdening this judgment by a ruling-by-ruling analysis, that none of the decisions holds that a mere statement, even if made by the elected representative in the Government, which is not preceded or followed by any executive instruction, Rule, Regulation or other instrument having the force of law, can be enforced through a mandamus.

71. We are, therefore, of the clear view that the assurance that the State would pay the rent of the migrants, for the period during which the lockdown remained in force, having not been followed up with any official documentation to that effect, cannot be enforced by a writ of mandamus.

72. Before closing the discussion on this issue, we deem it appropriate to reproduce, here, para 6 of the counter-affidavit filed by the State before the learned Single Judge, by way of response to the Writ Petition:

> "6. It is reiterated that the present Petition seeks enforcement of a statement and the same is not maintainable. *It is submitted that statements made by political personalities cannot be enforced through the judicial process if not backed by any policy decision.* The relief sought in the present Petition is contrary to the settled position of law laid down by the Hon'ble Supreme Court in a catena of judgements. It is a matter of public knowledge that even in recent memory, several political leaders across parties have made several statements. If every such statement becomes the subject matter of a petition under Article 226 of the Constitution of India then floodgates will open and pave way for all sorts of misplaced writ petitions, such as the present one. It is therefore submitted that the present Petition is liable to dismissed at the threshold itself."

We find such a stand truly surprising, coming from the executive which was, at the time of the filing of the counter-affidavit, still functioning under the Chief Minister whose statement was in issue. For reasons unknown, the executive of the day was itself unwilling to manifest the assurance, given by the Chief Minister, in an enforceable policy decision. Absent any manifestation in the form of a formal policy decision of the Government, the statement of the Chief Minister, by itself, would be unenforceable in law.

VI. Legitimate expectation

73. Inasmuch as the question of applying the principle of legitimate expectation would arise only if there existed, in the first instance, a promise by the State to the migrants, and we have already held that no

such promise can, in law, be said to have been made, we do not deem it necessary to dwell at length on the doctrine. Further, legitimate expectation, even if found to exist, essentially ensures, before the authority resiles from the promise, compliance with the principles of natural justice. A detailed analysis of the doctrine is contained in ***Union of India v. Hindustan Development Corporation***[38], which holds:

> "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 licence holder to a new applicant, the decision cannot be

[38] **(1993) 3 SCC 499**

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***[39]: "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 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*** 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."

[39] **Attorney General for New South Wales v. Quin, (1990) 64 Aust LJR 327**

74. The most authoritative pronouncement on legitimate expectation is to be found in the decision of the Constitution Bench in ***Sivananda C.T. v. High Court of Kerala***[40], which emphatically underscores the position that legitimate expectation creates, at best, an expectation, and not a legal right, even when a promise was made and has been withdrawn:

> "43. 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.
>
> 44. From the above discussion, it is evident that the doctrine of substantive legitimate expectation is entrenched in Indian administrative law subject to the limitations on its applicability in given factual situations. The development of Indian jurisprudence is keeping in line with the developments in the common law. The doctrine of substantive legitimate expectation can be successfully invoked by individuals to claim substantive benefits or entitlements *based on an existing promise or practice of a public authority.* However, it is important to clarify that *the doctrine of legitimate expectation cannot serve as an independent basis for judicial review of decisions taken by public authorities*. Such a limitation is now well recognized in Indian jurisprudence considering the fact that *a legitimate expectation is not a legal right. It is merely an expectation to avail a benefit or relief based on an existing promise or practice*. Although the decision by a public authority to deny legitimate expectation may be termed as arbitrary, unfair, or abuse of power, the validity of the decision itself can only be questioned on established principles of equality and non-arbitrariness under Article 14. In a nutshell, an individual who claims a benefit or entitlement based on the doctrine of legitimate expectation has to establish: (i) the legitimacy of the

[40] **(2024) 3 SCC 799**

> expectation; and (ii) that the denial of the legitimate expectation led to the violation of Article 14."
>
> (Emphasis supplied)

75. The above passage from ***Sivanandan C.T.*** was cited and followed, very recently, in ***State of Uttar Pradesh v. Bhawana Mishra***[41].

76. Besides the fact that, as no legally enforceable promise can be said to be contained in the press conference held by the Chief Minister on 29 March 2020, that the State would pay the rent of the migrants, the principle of legitimate expectation cannot be invoked to bind the State to the statement.

VII. The effect of the statement

77. At the same time, the assurance was only for a period of two to three months. During the said period, the migrant workers and labourers, who cannot be expected to be schooled in the niceties of law, must have proceeded on the belief that the assurance was legally binding and enforceable. Landlords, too, may have believed that the rent would ultimately be paid by the State.

78. We have already held that the proscription against evicting of migrants from tenanted premises, contained as it was in the DDMA Order No. 122-A, was binding on the landlords. No challenge has ever been laid to the said dispensation.

[41] **2026 SCC OnLine SC 37**

79. The question then arises as to whether the landlords are to be deprived the rent, for the premises let out to the migrants, during the period for which the lockdown remained in effect.

80. Had the NDMA or DDMA held this to be a further step which was necessary to curtail the spread of the pandemic, or had any Executive Instruction, Circular, Memorandum, Rule or Regulation to that effect been issued alongside the statement of the Chief Minister, the assurance that the rent of the migrants would have been borne by the State would have become enforceable in law as, then, the assurance would have metamorphosed from a mere statement in a press conference to a documented indicator of State intent. That, however, never took place, and, we reiterate, most unfortunately.

81. The question of issuing a writ of mandamus, in the terms sought by the petitioners does not, therefore, arise. If the Government decides to act in accordance with the assurance, it would certainly be at liberty to do so, but we cannot compel performance by mandamus.

F. Conclusion

82. We, therefore, dispose of this appeal by modifying the directions contained in the impugned judgment in the following terms:

(i) The prayer, in the writ petition, for a direction to the State to implement the assurance, contained in the press

conference dated 29 March 2020 of the Chief Minister, is misconceived and is accordingly rejected.

(ii) In view of DDMA Order No. 122-A dated 29 March 2020, which has never been challenged, the landlords cannot be allowed to recover, from their migrant tenants, the rent for the period during which they continued to occupy the tenanted premises, but were unable to move out owing to the COVID imposed lockdown. This amnesty would, however, apply only for the period the lockdown remained in force.

(iii) This would not, however, inhibit the State Government from taking a policy decision regarding the assurance given by the former Chief Minister in his press conference on 29 March 2020, regarding the State paying the rent of the migrants, should it so deem appropriate. We reiterate our clear opinion, however, that no mandamus could be issued to enforce the statement made by the then Chief Minister in the press conference on 29 March 2020.

(iv) We are unaware of the financial, logistical and other implications of enforcement of the decision that the State would bear the rent of the migrants, which, *prima facie*, appears to have been taken on the spur of the moment, as it does not even find reflection in the DDMA Order No. 122-A. We, therefore, are not expressing any view, one way or the other, thereon.

83. The appeal is accordingly disposed of.

84. There shall be no orders as to costs.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

APRIL 06, 2026