



**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

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LPA No.213/2022 (Srinagar Wing)

Reserved on: 09.04.2026
Pronounced on: 23.04.2026
Uploaded on: 23.04.2026

Whether the operative part or full
judgment is pronounced: **Full**

UT of J&K and others

.....Appellant(s)

Through: Mr. Bikramdeep Singh, Dy.AG

Versus

Sameer Ahmad Khan and others

.....Respondent(s)

Through: Mr. Mian Tufail, Advocate
Mr. M. Saleem Parray, Advocate

LPA no.127/2022 (Jammu Wing)

UT of J&K and others

.....Appellant(s)

Through: Ms. Monika Kohli, Sr.AAG with
Ms. Saghira Jaffar, assisting counsel

Versus

Sharan Gupta and others

.....Respondent(s)

Through: Mr. Abhinav Sharma, Sr.Advocate
with Mr. Abhirash Sharma, Adv.

CORAM:

**HON'BLE THE CHIEF JUSTICE
HON'BLE MR JUSTICE RAJNESH OSWAL, JUDGE**

JUDGEMENT

PER OSWAL-J

LPA No.127/2022 (Jammu Wing)



1. This *intra court* appeal is directed against judgement/order dated 09.05.2022 (for short “*the impugned judgment*”) passed in WP(C) No.82/2020, titled “*Sharan Gupta and others v. UT of J&K and others*”, whereby the learned Writ Court has quashed the order No.08-JAKEDA of 2019 dated 2nd December 2019, cancelling the selection process initiated by appellant No.2 pursuant to the Advertisement Notice No.1 of 2017 for the posts of Assistant Engineer, Civil/Electrical/Mechanical/ RE and Advertisement Notice No.2 of 2017 for the posts of Junior Engineer, Civil/Electrical/Mechanical/RE, both dated 12th September 2017, and further the appellants have been directed to conclude the selection process as far as possible within a period of four weeks from the date of passing of the impugned judgement.
2. Appellants, being aggrieved, have assailed impugned judgment, amongst others, on the ground that the competent authority for the cogent reasons terminated the selection process and respondents hold no vested right to challenge the cancellation of the recruitment process, as it suffered from procedural lapse because it was found that the agency namely, M/s LM Energy and Software Private Limited, Gurgaon, Haryana, authorized to conduct the test/examination after the approval conveyed by the Administrative Department, was engaged without issuing the Request for Proposal (RFP) or Expression of Interest (EOI), thus, depriving the other agencies to participate in the engagement process of the agency for conducting the examinations. It is also contended that after coming into force of the



Reorganisation Act, 2019, fresh Reservation roster has been issued by the J&K Government including new categories, therefore, it would be miscarriage of justice, if the present selection process is taken to its logical end.

3. Ms. Monika Kohli, learned Sr.AAG appearing for appellants, has submitted that the agency responsible for conducting the examination was engaged without issuing a Request for Proposal (RFP) or an Expression of Interest (EOI). This failure to invite competitive participation compromised the transparency of the recruitment process, necessitating its cancellation. Furthermore, mere participation in a selection process does not confer a vested right upon the respondents to challenge an employer's decision to cancel recruitment, particularly when such a decision is based on cogent reasons. She vehemently argued that following the J&K Reorganization Act, 2019, new reservation categories, including EWS (Economically Weaker Sections) and PSP (Pahari Speaking People) were incorporated into the reservation framework. Consequently, the learned Writ Court erred in quashing the cancellation order.
4. *Per contra*, Mr. Abhinav Sharma, learned Senior Counsel appearing for the respondents submitted that while appellants maintain the authority to cancel a recruitment process, such power must be exercised only upon 'cogent and justified' grounds. In the present case, there are no allegations of fraud, malpractice, or unfair means regarding the examination conducted by the agency. The agency was hired by appellant No. 2 following formal approval from the



competent authority. Consequently, a mere procedural infraction in the agency's engagement cannot invalidate an untainted selection process. It is submitted that the learned Writ Court, therefore, acted correctly in quashing the cancellation order and upholding the process of recruitment for the posts of Assistant Engineers (AEs) and Junior Engineers (JEs)."

5. Heard learned counsel for the parties and perused the record.
6. Advertisement Notice Nos. 1 and 2, both dated 12.09.2017, were issued to fill 77 vacancies across various categories in the J&K Energy Development Agency (JAKEDA), pursuant to the Administrative Department's communication dated 02.08.2017. A proposal was submitted to engage M/s LM Energy and Software Private Limited for a confidential assessment. This mandate encompassed the entire recruitment lifecycle, including the development of the registration process, conduct of examination, and the compilation of merit lists and results. Following administrative approval, the agency was authorized to proceed and subsequently conducted the written examinations for the advertised posts. However, it later emerged that the agency had been engaged without the issuance of a Request for Proposal (RFP) or Expression of Interest (EOI). This omission effectively excluded other potential agencies from the selection process. On this ground, citing a lack of competitive transparency, the recruitment process was subsequently cancelled.



7. A perusal of the cancellation order dated December 2, 2019, reveals that the sole justification for terminating the recruitment process was the non-issuance of a Request for Proposal (RFP) or Expression of Interest (EOI) during the selection of the testing agency. Apart from this specific procedural omission, the order assigns no other reasons to justify the cancellation. Consequently, the recruitment was scrapped based purely on a technicality in the engagement of the agency, rather than any deficiency in the selection process of the candidates themselves
8. The learned Sr. AAG vehemently contended that mere participation in a recruitment process does not confer a vested right upon the respondents to challenge the employer's decision to cancel the selection. It was further argued that the employer retains the inherent authority to terminate the process at any stage, provided such a decision is supported by cogent and bona fide reasons.
9. To delineate the scope of judicial review regarding the cancellation of a recruitment process at an advanced stage, it is pertinent to consider the following landmark judgments of the Hon'ble Supreme Court:

(A). In *Shankarsan Dash v. Union of India*, (1991) 3 SCC 47, the Hon'ble Apex Court has held as under:

“7. It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. **Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up**



all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted. This correct position has been consistently followed by this Court, and we do not find any discordant note in the decisions in *State of Haryana v. Subash Chander Marwaha*, *Neelima Shangla v. State of Haryana* or *Jatinder Kumar v. State of Punjab*.”

(emphasis added)

(B). In *East Coast Railway v. Mahadev Appa Rao*, (2010) 7 SCC

678, the Hon'ble Apex Court has observed as under:

“14. It is evident from the above that while no candidate acquires an indefeasible right to a post merely because he has appeared in the examination or even found a place in the select list, yet the State does not enjoy an unqualified prerogative to refuse an appointment in an arbitrary fashion or to disregard the merit of the candidates as reflected by the merit list prepared at the end of the selection process. **The validity of the State's decision not to make an appointment is thus a matter which is not beyond judicial review before a competent writ court. If any such decision is indeed found to be arbitrary, appropriate directions can be issued in the matter.**

(emphasis added)

(C). In *Partha Das v. State of Tripura*, 2025 SCC OnLine SC 1844,

the recruitment process for the post of Inspector of Boilers had reached in its final stage, with only the interview results pending declaration. However, the process was stalled and subsequently cancelled following the introduction of a new recruitment policy. The High Court of Tripura quashed the cancellation order, a decision which was upheld by the Hon'ble Supreme Court with the following observations:

“As such, we are not inclined to deal with all the similar issues separately in the present case. The candidates participated in the recruitment process carried out under the Boilers Act read with the Central Rules and State Rules. **After issuance of advertisement, a written screening test was conducted on 21.08.2017, pursuant to which selected**



candidates, including respondent no. 1 were called for interview on 07.12.2017. Thus, only the result of the interview was left to be declared. As such the recruitment process for the post of ‘Inspector of Boilers’ was at a significantly advanced stage when the recruitment process was kept in abeyance, later cancelled by the Cancellation Memorandum and TPSC notification dated 22.11.2018. The application of the NRP to the ongoing recruitment process was arbitrary and unjust and candidates do have a legitimate expectation of completion of the recruitment process in a fair and non-arbitrary manner. It is pointed out by the appellant - State that in the facts of this case, in the Boilers Act, Central Rules or the State Rules or even in the Advertisement, there is no prescription of marks to be obtained in the written test or the interview, but the fact remains that the written test was already conducted out of 100 marks and the interview was also conducted out of 100 marks. As such, the subsequent decision to apply NRP to the said recruitment process cannot be sustained. The recruitment should be completed as per the Boilers Act, Central Rules and State Rules, and the candidates may be appointed, if found to be meritorious, subject to fulfilling all other criteria.

(emphasis added)

10. By placing reliance on the abovementioned judgements in “**Altaf Hussain v. Union of India**”, 2026 SCC OnLine J&K 144, this Court has observed as under:

“17. Thus, while it is settled law that mere participation in a selection process does not vest an indefeasible right to appointment, **the State's power to cancel such a process is not absolute and must be grounded in justifiable reasons. Constitutional Courts, in the exercise of judicial review, are empowered to scrutinize an employer's decision to abandon a recruitment process, particularly when it has reached an advanced stage of conclusion. If such a decision is found to be arbitrary or lacks a rational nexus with the intended objective, the Court may issue appropriate directions to provide relief.**”

(emphasis added)

11. We must now determine whether the decision of appellant No. 2 to cancel the recruitment process bears a rational nexus to the intended objective. The cancellation order is notably silent regarding any allegations of irregularity or illegality in the conduct of the examination by the engaged agency. The mere fact that the agency



was hired without providing other entities an opportunity to participate, while a procedural omission, can hardly be considered a 'cogent' ground for cancelling a selection process that has reached an advanced stage. Crucially, the appellants have not contended that the agency lacked competence or engaged in malpractices, either during its engagement or throughout the conduct of the examinations. In absence of such substantive grounds, appellant No. 2 was not justified in scrapping the recruitment solely on the basis of a non-issuance of an RFP or EOI and in fact, the cause projected for cancellation of recruitment process by the appellants is illusory in nature. Accordingly, we find no merit in this contention, and it is hereby rejected.

12. It was further vehemently argued by the learned Sr. AAG that, following the enactment of the J&K Reorganisation Act, 2019, a fresh reservation roster was issued by the Government of Jammu & Kashmir incorporating new categories. Consequently, it was contended that the impugned judgment is legally unsustainable. However, we note that this ground was never cited as a basis for the original cancellation order. It is a settled principle of law that the validity of an executive order must be judged on the reasons mentioned therein and cannot be supplemented by fresh grounds in the memo of appeal or oral submissions. Therefore, the appellants cannot utilize the Reorganisation Act, 2019, as a shield to justify an act that had already culminated in the issuance of the cancellation order on entirely different grounds. In this context, it would be



appropriate to take note of the judgement of the Hon'ble Supreme Court in "*Mohinder Singh Gill and another v. The Chief Election Commissioner, New Delhi and others*", (1978) 1 SCC 405. Paragraph 08 thereof is advantageous to be read hereunder:

"The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose J. in *Gordhandas Bhanji* case:

"Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to, do. Public orders made by public authorities are meant to have public effect and are intended to effect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."

Thus, this contention of learned Sr. AAG also fails.

13. We have perused the judgement impugned in this appeal. We hardly find any reason to show indulgence and accordingly **dismiss** the appeal being bereft of any merit.

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14. In this appeal, pending before the Srinagar Wing of this Court, the order impugned dated 26th May 2022 in WP(C) no.3749/2019 has been passed on the basis of the judgment dated 9th May 2022, passed in WP(C) No.82/2020.
15. Since LPA No. 127/2022, preferred against the aforementioned judgment dated May 9, 2022, has been dismissed, we find no occasion



to reiterate the detailed reasoning and findings already recorded therein. Consequently, the instant appeal is likewise **dismissed** on the same terms. The copy of this judgment be placed on the record of LPA No.213/2022 (Srinagar Wing).

(Rajnish Oswal)
Judge

(Arun Palli)
Chief Justice

JAMMU
23.04.2026
Ajaz Ahmad, Secy

Whether approved for reporting? Yes

