

**HIGH COURT OF GUJARAT AT AHMEDABAD****Bench: JUSTICE ASHUTOSH SHASTRI****Date of Decision: 29 September 2023**

R/SPECIAL CIVIL APPLICATION NO. 13748 of 2006 With  
R/SPECIAL CIVIL APPLICATION NO. 23353 of 2005 With  
R/SPECIAL CIVIL APPLICATION NO. 23354 of 2005 With  
R/SPECIAL CIVIL APPLICATION NO. 23355 of 2005 With  
R/SPECIAL CIVIL APPLICATION NO. 13749 of 2006 With  
R/SPECIAL CIVIL APPLICATION NO. 13750 of 2006 With  
R/SPECIAL CIVIL APPLICATION NO. 13751 of 2006 With  
R/SPECIAL CIVIL APPLICATION NO. 13752 of 2006 With  
R/SPECIAL CIVIL APPLICATION NO. 13753 of 2006 With  
R/SPECIAL CIVIL APPLICATION NO. 13754 of 2006 With  
R/SPECIAL CIVIL APPLICATION NO. 13755 of 2006

**DIPESH MANIBHAI SHAH**

Versus

STATE OF GUJARAT &amp; 1 other(s)

**Section, Acts, Rules, and Article:**

Section 4 and Section 5 of the Bombay Service Inams (Useful to  
Community) Abolition Act, 1953

Government Resolution dated 16.03.1982

Government Resolution dated 13.07.1983

Government Resolution dated 17.09.1984

Article 226 of the Constitution of India

**Subject:** Challenge to the demand for payment under Government Resolution related to the conversion of land use and related policy measures. The dispute also involves the payment made under protest, the petitioner's transfer of land to a third party, and the locus standi of the petitioner to challenge the proceedings.

**Headnotes:**

*Legal Challenge – Challenging legality and validity of orders passed by respondent authorities regarding payment of premium for land transfer – Group of Special Civil Applications filed – Special Civil Application No. 13748 of 2006 treated as lead matter – Submissions made in lead matter applicable to other petitions in the group. [Para 1-3]*

*Factual Background – Petitioner's claim regarding land ownership and transfer – Permission to transfer land granted under certain conditions – Petitioner challenges conditions imposed on transfer – Subsequent orders related to premium payment and refund of premium also challenged. [Para 2-4]*

*Premium Payment Dispute – Petitioner contends that the premium amount paid under protest – Authorities alleged to have acted arbitrarily in imposing conditions and premium – Argument against charging premium twice for land transfer – Violation of Article 14 of the Constitution of India alleged. [Para 4, 4.1]*

*Government Policy – Payment of Premium for Conversion of Land Use – Challenge to the demand for payment under Government Resolution – Policy measures framed by the Government not challenged – Dispute regarding the payment made under protest – Petitioner's transfer of land to a third party – Locus standi of the petitioner to challenge the proceedings – Exercise of extraordinary jurisdiction under Article 226 of the Constitution – Scope of judicial review in policy matters – No apparent arbitrariness or mala fides found in the policy – Court's reluctance to interfere with policy decisions unless manifestly arbitrary, discriminatory, or contrary to statutory directions – Exercise of extraordinary jurisdiction should be sparing – Petitions dismissed as devoid of merits. [Para 7-12]*

**Referred Cases:** None.

**Representing Advocates:**

MR SP MAJMUDAR(3456) for the Petitioner(s) No. 1

MS SUMAN MOTLA ASSISTANT G

OVERNMENT PLEADER for the Respondent(s) No. 1,2

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## **CAV JUDGMENT**

1. By way of this group of Special Civil Applications, the petitioner basically has challenged the legality and validity of the orders passed by the respondent authorities and thereby prayed to hold that the petitioner is not liable to pay any amount of premium for transfer of his land to Pushpaben Natubhai Patel. Since this group of petitions are arising out of similar controversy and a request is made to deal with all the petitions conjointly, learned advocate representing the petitioner has requested to treat Special Civil Application No. 13748 of 2006 as a lead matter and submissions have been made in the said petition, which would govern the other set of Special Civil Applications which are filed with this group and as such, for the sake of convenience, upon request of learned advocates, we have treated Special Civil Application No. 13748 of 2006 as a lead matter.

2. The petition is arising out of factual following details. It is the case of the petitioner that land bearing Revenue Survey No. 806/1, Block No. 768, admeasuring 3136 sq.mtr., Survey No. 806/4/1 = Block No. 766 admeasuring 2328 sq.mtrs., Survey No. 806/6/2 = Block No. 735 admeasuring 2428 sq.mtr., Survey No. 739/2 = Block No. 751 admeasuring 1619 sq.mtrs., of Village Sevasi, Taluka and District Baroda was granted by the respondent authority to one Chotabha Kalabhai Bhangi (now deceased) on new and impartible condition under the relevant provisions of Act and the land was included in the agriculture zone under the Draft Development Plan of VADA.

2.1. It the case of the petitioner that petitioner wanted to purchase the said lands and as such, the holders of the said lands applied before the District Collector, Baroda for permitting them to sell the said lands to the petitioner herein for agriculture purpose. The said application was made on 20.02.1997. In response to the said application, process was undertaken by the authority and as per the report from the department of town planner, Baroda, the market value was determined at Rs.6,48,000/- per hectare and the District Collector asked the holders of the lands to deposit amount of Rs.2,99,578/- being the amount of premium payable to the subject land as condition precedent for transfer of the said lands in government treasury and accordingly, petitioner had deposited the said amount and as such, on 16.12.1997, permission was granted to transfer the said lands to petitioner subject to further conditions which were set out in the order. As many as out of seven (7) conditions, petitioner found condition nos. 1, 2, 4 and 5 being prejudicial to the interest of the petitioner and as such, petitioner carried the said order dated 16.12.1997 before the higher authority i.e. State Government and ultimately challenged the said order passed by the State Government, by way of separate petitions.

2.2. It is the case of the petitioner that subsequently, he purchased the said lands by registered sale deed dated 28.01.1998 and pursuant to the said registered sale transaction, the entry got mutated being entry no. 3397 in the revenue records and in due course, the said entry was also certified. The petitioner thereafter applied to the Collector on 28.07.2003 to permit the petitioner to sell the said land to one Pushpaben Natubhai

Patel to enable her to put construction of school building. The petitioner submitted proposal to the Government in that behalf and ultimately the Collector passed an order on 12.01.2004 permitting the petitioner to sell this land to Pushpaben Natubhai Patel subject to condition of paying an amount of Rs.9,90,546/- being premium amount to the State Government in respect of the said land. Feeling aggrieved by the said order i.e. order dated 12.01.2004, the petitioner filed proceedings by way of revision application before the State Government and the Special Secretary, Revenue Department (Appeals) (SSRD) vide order dated 18/26.05.2005 was pleased to dismiss the revision application and feeling aggrieved by the same, the petitioner approached this Court by way of petition under Article 226 of the Constitution of India and it is in this background, it appears that the petition by way of order dated 27.02.2007 was admitted and clubbed this group of petitions and then upon completion of pleadings, it has come up for consideration before this Court. Hence, upon request of learned advocates, the matter is taken up for hearing.

3. Similar is the case with respect to the other petitions attached to this factual details in a very summarized form is reproduced hereunder :-

*“Insofar as Special Civil Application No.23354/2005 is concerned a challenge is made to an order dated 12.01.2004 of the District Collector granting permission to sale of property on payment of premium and order dated 27.05.2005 of the SSRD, where the prayer for refund the amount of premium is made.*

*Insofar as Special Civil Application No. 23355 of 2005 is concerned, a challenge is made to an order dated 16.12.1997 passed by the District Collector imposing condition Nos 1, 2, 4 and 5 as well as order dated*

*27.05.2005 of the SSRD, where the conditions imposed by the District Collector were challenged.*

*Insofar as Special Civil Application No.23353/2005 is concerned, a challenge is made to an order dated 27.02.2004 passed by the District Collector by which he corrected his earlier order dated 12.01.2004 and demanded further premium of Rs.76,050/- as well as has also challenged order dated 27.05.2005 of the SSRD where refund of the above amount was claimed.*

*Insofar as Special Civil Application No.13750/2006 is concerned, a challenge is made to an order dated 16.12.1997 passed by the District Collector imposing condition nos. 1, 2, 3, 4, and 5 as well as order dated 26.05.2005 of the SSRD, in which the said conditions were challenged.*

*Insofar as Special Civil Application No.13748/2006 is concerned, a challenge is made to an order dated 12.04.2004 passed by the District Collector of levying premium amount of Rs.9,90,456 as well a order dated 26.05.2005 of the SSRD for refund of the same amount.*

*Insofar as Special Civil Application No.13749/2006 is concerned, a challenge is made to the corrected order dated 27.02.2004 to pay further amount of Rs.2,39,662/as well as order dated 26.06.2005 for refund of the said amount was claimed.*

*Insofar as Special Civil Application No.13754/2006 is concerned, a challenge is made to the corrected order dated 02.01.2004 levying premium of Rs.4,53,015 as well as order passed by SSRD dated 26.05.2004 for refund of the said amount was sought for.*

*Insofar as Special Civil Application No.13753/2006 is concerned, a challenge is made to the corrected order dated 27.02.2004 to pay further amount of Rs.1,03,913/as well as order dated 20.05.2005 for refund of the said amount was claimed.*

*Insofar as Special Civil Application No.13755/2006 is concerned, a challenge is made to the corrected order dated 16.12.1997 passed by the District Collector imposing condition nos. 1, 2, 4, and 5 as well as order dated 26.05.2005 of the SSRD, in which the said conditions were challenged*

*Insofar as Special Civil Application No.13751/2006 is concerned, a challenge is made to the corrected order dated 12.01.2004 passed by the District Collector of levying premium amount of Rs.8,15,926/- as well a order dated 26.05.2005 of the SSRD for refund of the same amount.*

*Insofar as Special Civil Application No.13752/2006 is concerned, a challenge is made to the corrected order dated 27.02.2004 to pay further*

*amount of Rs.2,07,178/as well as order dated 26.05.2005 passed by the SSRD for refund of the said amount was claimed.”*

4. Mr. S. P. Majumdar, learned advocate appearing for the petitioner has vehemently contended that the order passed by the respondent authority is not only unjust or arbitrary, but is not sustainable in the eye of law. It has been contended that the amount which has been paid by the petitioner was paid under protest and that fact ought to have been noticed by the authority to pass an order. It has been contended that the authorities below have not properly appreciated the fact that once transfer of land is permitted on payment of premium, land would automatically convert into old tenure as all other restrictions imposed while transfer would disappear and as such, to again demand premium is hit by principle of unjust enrichment. According to learned advocate Mr. Majmudar, pursuant to the earlier permission when already premium amount collected by the State authorities, it would not be open at all to demand once again the amount of premium. Further it has been contended that once permission under Section 5(3) of the Act of 1953 is granted, there is hardly any reason for insisting for payment of further premium since earlier premium has extinguished all the restrictions which were imposed at the relevant point of time and as such, even in view of guidelines contained in Government Circular dated 13.07.1983 insistence for further payment of premium is outside the scope of authority and therefore, this is a serious error committed by the authorities below. Learned advocate Mr. Majmudar has in written form raised following issues/submissions for consideration of this Court and since the same is tendered, the

Court deems it proper to reproduce hereunder :-

#### ***BRIEF POINTS FOR ARGUMENTS***

- *The lands were originally granted to the predecessor of the petitioner under the provisions of the Bombay Service Inams (Useful to Community) Abolition Act, 1953. It is submitted that permission to transfer the aforesaid land was granted under section 5(3) of the Act by way of order dated 16.12.1997 by the District Collector. While granting the aforesaid permission, premium of 50% of the market price of the land as assessed by the respondent authorities was paid. It is submitted that despite the same in the said order, conditions were imposed viz. condition Nos. 1, 2, 4 and 5, wherein it was mentioned that the land would remain a new tenure land and further transfer of the land cannot be made without prior approval of the District Collector. It is submitted that once the petitioner has already paid 50% of the market price of the land in question, as assessed by the*

*respondent authorities towards the premium for transfer of the land in favour of the petitioner, such conditions of restricting the tenure of the land as "new tenure land" and imposing conditions about further nontransferability are completely illegal, void without authority of law and without jurisdiction.*

- *The petitioner paid the amount of premium, which was initially assessed in the 1997, thereafter, on 12.01.2004 the petitioner applied for transfer of the*

*land, wherein the impugned orders were passed by the District Collector levying premium at 80% of the market price. The said order of levying premium of 80% of market price is completely unsustainable, illegal, without authority of law and without jurisdiction. Once premium at 50% has already been paid there can be no further chargeability of premium for further transfer of land.*

- *After the District Collector passed order dated 12.01.2004. further orders were passed by him, levying additional premium by passing corrected order dated 27.02.2004. Such additional premium was levied by him as he did not give set off of the amount of 50% premium deposited by the petitioner earlier. Such order is also completely illegal, without authority of law and without jurisdiction.*
- *The petitioner has paid the entire amount of premium under the corrected order of Collector protest and has transferred the land however, the petitioner is entitled to get refund of the same. The petitioner applied to the Special Secretary, Revenue Department for getting refund of the said amount as well as challenging the conditions imposed by the District Collector. However, the Special Secretary, Revenue Department by the impugned order dated (26.05.2005) rejected the revision application of the petitioner. The said order of the Special Secretary, Revenue Department is also erroneous and does not consider the contentions of the petitioner.*
- *That the authorities below have committed fundamental error in not appreciating that the purchaser would always be ready and willing to pay the necessary charges which are required for conversion of the land into N.A. land but the authorities cannot unjustly enrich themselves by charging double premium. In the present case, the total premium demanded by the authorities for transfer of land is 130% of the market price of the land, which is completely impermissible.*
- *That Government Resolutions referred to in the affidavit-in-reply also do not give any powers to the authority to charge premium at two stages. However, the authority cannot charge premium again having already charged premium once, as per the prevailing policy for transfer of land.*



- *That the impugned conditions imposed in the order of the District Collector dated 16.12.1997 are without authority of law and without any source of power and just because the petitioner did not initially challenge the same, the petitioner cannot be estopped from challenging the same, as there cannot be any estoppel (against law and there cannot be any waiver of Article 14 of the Constitution of India on the part of the petitioner. It is submitted that in the present case, the State authorities have acted in violation of Article 14 of the Constitution of India and have acted completely arbitrarily and even in the reply they have not justified their source of powers for levying premium twice for transfer of lands.*
- *That such premium should also not be charged in view of the provisions of section 5(3) of the Bombay Service Inams (Useful to Community) Abolition Act, 1953.*
- *It is pertinent to note that the petitioner has transferred the land to the agriculturist and the authority charged premium at 130% for transfer of land by agriculturist to another agriculturist. (the first 50% for transfer in favour of petitioner who is agriculturist and another 80% for transfer in favour of Pushaben who is also an agriculturist).*
- *That though the petitioner has transferred the land further after paying premium, the said amount of premium is paid under protest. Since the said amount has been calculated by the authorities without any authority of law and without any statutory provisions enabling them to do so, the amount of premium paid by the petitioner is required to be refunded by the authority to the petitioner with interest.”*

4.1. After submitting this, it has been categorically stated that once permission has been granted under the Special Act, there is hardly any reason for applying general principle of premium and thereto after several years and as such, the authorities below ought to have been appreciated and the same having not been done, the order under challenge is required to be quashed and set aside.

5. As against this, Ms. Suman Motla, learned Assistant Government Pleader appearing for the respondent authority has submitted that Government Resolution which is pressed is with respect to regrant and as

such, the petitioner is bound to pay 80% of the amount, and as such, once having availed the benefit somewhere in the year 2005, the petitioner cannot take undue advantage any further. By drawing attention to affidavit-inreply, an attempt is made by the learned Assistant Government Pleader to contest the petition. Learned Assistant Government Pleader has further submitted that as per Government Resolution dated 13.07.1983 occupant of land who wants to sell the land of new impartible condition for agriculture purpose is supposed to pay 50% of the market value of premium. The original allottee i.e. Chhotabhai Kalabhai Bhangi applied for permission for sale of subject land in question to one Dipesh Manilal Shah, the present petitioner and as such, permission was granted on condition to deposit 50% amount of market value and the said amount has been paid by petitioner.

5.1. Subsequently, the petitioner applied for further permission to resale the subject land to Pushpaben Natubhai Patel for non agriculture use i.e. for public school purpose for which he was granted permission on payment of 80% amount of the market value as determined by the Collector. According to learned Assistant Government Pleader, Section 73(A) and (B) of the Bombay Land Revenue Code are not applicable in this case as the said provisions are applicable in cases of transfer of land of the tribals and as such, under these set of circumstance, the order passed by the Collector confirmed by the SSRD is just and proper and as such has requested not to entertain the petition.

5.2. Learned Assistant Government Pleader has further by way of additional affidavit filed by the Mamlatdar and Executive Magistrate, Vadodara (Rural) has pointed out that petitioner was granted permission in the year 1997 and payment has been made by way of premium to the extent of Rs.1,29,891/- and the said land then was allotted to him for agriculture purpose only as new and impartible tenure and on 18.02.1998, sale deed was executed which was mutated in revenue records. Subsequently, in the year 2003, the petitioner applied for sale/change of condition and has paid actually an amount of Rs.4,53,015/- on 16.12.2003 and thereafter, permission of Collector, Vadodara which was accorded on 16.12.1997 to transfer the land by way of registered sale deed of Block No. 750 and 756 was transferred in favour of Pushpaben Natubhai Patel. The land owner then Pushpaben Natubhai Patel on 13.05.2006 sold one portion of land i.e. Survey/Block No. 764 to one 'Nalanda Knowledge Foundation' and as such, now since the land is already transferred to the third party, the petitioner has no *locus standi* to challenge the proceedings as on date and as such, challenge at his instance may not be entertained.

6. Having heard the learned advocates appearing for the parties and having gone through the orders passed by the authorities below, few circumstances deserves consideration before arriving at an ultimate conclusion.

6.1. Before dealing with the main controversy, we may peruse the relevant provisions centering around the controversy. The provisions of the

Bombay Service Inams (Useful to Community) Abolition Act, 1953 was an Act enacted on 22.12.1953 to abolish service of inams useful to community in certain parts of the State of Bombay and the same was made applicable here in the State of Gujarat, which effect is not in dispute. The Act has defined the word 'holder' of a service inam village as well as service inams 'appointed day' is also prescribed. Amongst other provisions of the Act, Section 4 deals with 'liability of service inam villages and lands to land revenue and persons liable to pay the same, whereas, Section 5 is dealing with 'resumption of service inam land and its regrant to holder. This being a relevant provisions, at this juncture, Court deems it proper to re-produce hereunder :-

**"5. Resumption of service inam land and its regrant to holder :-** (1) *All service inam lands which have not been adjudicated under Rule 8 of Schedule B to the Bombay Rent-free Estates Act, 1852, are hereby resumed and shall be liable to the payment of land revenue under the provisions of the Code and the rules made thereunder and the provisions of the Code and the rules relating to the unalienated lands shall apply to such lands. (2) A service inam land resumed under the provisions of [subsection (1)] shall be regranted to the holder on payment of the occupancy price equal to six times the amount of the full assessment of such land within [five years] from the appointed day and the holder shall be deemed to be an occupant within the meaning of the Code in respect of such land and shall primarily be liable to pay land revenue to the State Government in accordance with the provisions of the Code and the rules made thereunder: Provided that if the holder fails to pay the occupancy price within the period of [five years] as provided in this Section, he shall be deemed to be unauthorisedly occupying the land and shall be liable to be summarily ejected in accordance with the provisions of the Code: [Provided further that where a service inam consisting of land is inalienable and is in the possession of a person other than the descendant of the original grantee, then for the purposes of regrant of land, the person in possession of the land shall produce satisfactory documentary evidence to show that the alienation of the land in his favour or in favour of his predecessor-in-title was made with the sanction of the competent authority, and was lawfully made. (3) The occupancy of the land regranted under sub-section (2) shall not be transferable or partible by metes and bounds without the previous sanction of the Collector and except on*

*payment of such amount as the State Government may by general or special order determine.”*

6.2. The manner and method in which, how this provisions are made workable, is stipulated in other parts of the statute and by virtue of Section 13 of the Act, the State Government, subject to the condition of previous publication is empowered to make the rules for the purpose of carrying out provisions of this Act. Section 5 of the Act as indicate above which deals with resumption, has indicted in sub-section (1) that all service inam lands which have not been adjudicated under Rule 8 of schedule B to the Bombay Rent-free Estates Act, 1852, are resumed and shall be liable to the payment of land revenue under the provisions of the Code, as also, subject to the rules relating to unalienated lands shall also apply to such lands. Sub-section (2) has indicated that service inam land resumed under the provisions of sub-section (1) shall be regranted to the holder on payment of occupancy price equal to six times the amount of full assessment of such land within five (5) years from the appointed day and the appointed day is defined under clause (a) to Section 2 and has stipulated that such holder or occupant shall primarily be liable to pay land revenue to the State Government in accordance with law with the provisions of the Code and if he fails to pay occupancy price within the aforesaid period of five years, he shall be deemed to be unauthorizedly occupying the land and liable for summary eviction. Sub-section (3) of Section 5 is stipulating that occupancy of land regranted under subsection (2) shall not be transferable or partible by metes and bounds without the previous sanction of the Collector and except on payment of such amount

as the State Government may by General or Special order determine and as such,

transfer subject to condition as stipulated in the said provisions.

6.3. With a view to regulate the occupancy, certain other Government Resolutions by way of policy measures have also prescribed criteria and imposed certain conditions and one of such is Government Resolution dated 16.03.1982. This Government Resolution has taken care of regrant and stipulated certain terms for the purpose of change from new tenure to old tenure or for non-agriculture purpose as well and in respect of this, a provision is made to the effect that if any occupant/land holder if inclined to convert for agriculture purpose, within 12 years from such circumstance, then 50% market value and regarding occupancy rights, premium amount has to be paid, such is the provision made under clause (2) (GH). This Government Resolution has been further reconsidered by way of subsequent Resolution dated 13.07.1983 in which restrictions which were made in respect of regrant and conversion permissions. The Resolution has provided that in respect of lands which are granted under the policy act, clause (1) has cancelled the standard conversion of lands from new tenure to old tenure, which are relating to agriculture purpose and under clause (2) it has been stated that if occupancy is for a period within 20 years, then 75% whereas in case possession is more than 20 years, 50% premium is decided to be taken and also provided that the same would be occupying as new tenure and impartible condition only. Later on it has

been provided in this very Resolution that if holder on account of contingencies which are stipulated is not in a position to execute agricultural operation, and there is need to relinquished agricultural purpose, either on premium or shifting elsewhere or extraordinary circumstance, where it is not possible except to sell away the land then, for agricultural purpose only sale permission would be granted and for that if occupancy is within 20 years, 100% premium to be collected and if such permission sought for is beyond the period of 20 years occupancy then premium to the extent of 90% to be collected and this Resolution was published with concurrence of the relevant department. Thereafter, one another Resolution came to be published by the State Government dated 17.09.1984 wherein, it has been stipulated with some modification that if occupancy is within 20 years and for non-agricultural purpose, then 100% premium whereas, if beyond period of 20 years, then 90% premium which was provided in earlier Resolution was modified and stipulated that within 20 years, if to be utilized for nonagricultural purpose, premium would be at 80%. These are the policy measures provided by the Government by virtue of various Resolutions.

7. Now in light of the aforesaid situation which is prevailing on record, the policy framed by the Government by virtue of Government Resolutions are not at all under challenge and there is no reflection of any arbitrariness in respect of measures taken by the respondent authority. Further whether payment has been made under the protest or not is a matter of dispute and the said issue is within the realm of disputed question of fact and after

making the payment as demanded by the authority, now to turn around and challenge the said action, it appears to be not digestible. The policy which is framed has its own object to be achieved and close perusal thereof, is not indicating that the principle of unjust enrichment violates in any form. In fact, it cannot be said that there is any unjust enrichment. The earlier amount which has been collected and then which has been subsequently collected are in altogether different circumstance and the said policy has got specific source of power and as such, in the absence of any challenge to the said provisions of policy, it is not open for the petitioner now to agitate after securing benefit upon voluntary payments having been made.

7.1. In fact, it further appears from the record that the land in question is already transferred to a third party and the petitioner is a seller who has extinguished his right by transferring the land after collecting consideration from the said sale transaction and as such, the question of *locus* also is not possible to be ignored by this Court thereto, when extraordinary jurisdiction equitable in nature under Article 226 of the Constitution of India is invoked.

8. In light of the aforesaid situation which is prevailing, the reasons which are assigned by the authority are such, which cannot be said to be perverse or suffering from any material irregularity. In fact, proper application of mind is reflecting in such exercise of jurisdiction and the overall consideration of material which has been narrated in the order, this Court is of the opinion that the order passed by the authorities below is



just and proper, cannot be said to be illegal or irregular in any form. Hence, this Court would not like to interfere with the orders passed by the authorities below and in any case, the present petitioner undisputedly has made payments on which, portion of land 'Nalanda Knowledge Foundation' has become transferee and as such, in the absence of any irregularity of any nature, the Court is not inclined to exercise extraordinary jurisdiction.

9. As discussed earlier, by virtue of specific provisions, a demand has been made by the authority which is paid and further in view of the policy, a further amount which has been determined has also been paid long back, and hence at this stage, the Court is not inclined to exercise its jurisdiction more particularly, when such demand was in pursuance of the policy framed by the State Government. At this juncture, it would be apt and appropriate to quote the relevant proposition of law laid down by the Hon'ble Apex Court in respect of judicial review in examining the policy matters. The Hon'ble Apex Court time and again, has propounded that unless the said policy is apparently arbitrary or reflects *mala fides*, no interference deserves. The following are the proposition of law laid down by the Hon'ble

Apex Court, the Court deems it proper to quote hereunder :“In the case of ***Federation Haj PTOs o India v. Union of India*** reported in **(2020) 18 SCC 527** (para 19 & 20)

*“19. The scope of judicial review is very limited in such matters. It is only when a particular policy decision is found to be against a statute or it offends any of the provisions of the Constitution or it is manifestly arbitrary,*

*capricious or mala fide, the Court would interfere with such policy decisions. No such case is made out. On the contrary, views of the petitioners have not only been considered but accommodated to the extent possible and permissible. We may, at this junction, recall the following observations from the judgment in Maharashtra State Board of Secondary & Higher Secondary Education v. Paritosh Bhupeshkumar Sheth:*

*"16... The Court cannot sit in judgment over the wisdom of the policy evolved by the Legislature and the subordinate regulation-making body. It may be a wise policy which will fully effectuate the purpose of the enactment or it may be lacking in effectiveness and hence calling for revision and improvement. But any drawbacks in the policy incorporated in a rule or regulation will not render it ultra vires and the Court cannot strike it down on the ground that in its opinion, it is not a wise or prudent policy, but is even a foolish one, and that it will not really serve to effectuate the purposes of the Act. The Legislature and its delegate are the sole repositories of the power to decide what policy should be pursued in relation to matters covered by the Act and there is no scope for interference by the Court unless the particular provision impugned before it can be said to suffer from any legal infirmity, in the sense of its being wholly beyond the scope of the regulationmaking power or its being inconsistent with any of the provisions of the parent enactment or in violation of any of the limitation imposed by the Constitution."*

*20. We may also usefully refer to the judgment in State of Madhya Pradesh v. Nandlan Jaiswal. In this judgment, licence to run a liquor shop granted in favour of A was challenged as arbitrary and unreasonable. The Supreme Court held that there was no fundamental right in a citizen to carry on trade or business in liquor. However, the State was bound to act in accordance with law and not according to its sweet will or in an arbitrary manner and it could not escape the rigour of Article 14. Therefore, the contention that Article 14 would have no application in a case 4 (1984) 4 SCC 27 5 (1986) 4 SCC 566 where the licence to manufacture or sell liquor was to be granted by the State Government was negated by the Supreme Court. The Court, however, observed:*

*"But, while considering the applicability of Article 14 in such a case, we must bear in mind that, having regard to the nature of the trade or business, the Court would be slow to interfere with the policy laid down by the State Government for grant of licences for manufacture and sale of liquor. The Court would, in view of the inherently pernicious nature of the commodity allow a large measure of latitude to the State Government in determining its policy of regulating, manufacture and trade in liquor. Moreover, the grant of licences for manufacture and sale of liquor would essentially be a matter of economic policy where the Court would hesitate to intervene and strike down what the State Government had done, unless it appears to be plainly arbitrary, irrational or mala fide."*

In the case of **Satya Dev Bbhagaur & Ors. v The Sstate of Rajasthan and Ors.** Reported in **2022 LiveLaw (SC)**

**177** (para 16 and 18.)

*16. It is trite that the Courts would be slow in interfering in the policy matters, unless the policy is found to be palpably discriminatory and arbitrary. This court would not interfere with the policy decision when a State is in a position to point out that there is intelligible differentia in application of policy and that such intelligible differentia has a nexus with the object sought to be achieved.*

*18. A three Judge bench of this Court in Sher Singh and Others vs. Union of India and Others, (1995) 6 SCC 515 has observed thus: "As a matter of fact the courts would be slow in interfering with matters of government policy except where it is shown that the decision is unfair, mala fide or contrary to any statutory directions."*

10. And here even no challenge is made to the policy and as such, in view of the aforesaid proposition of law laid down in respect of relevant issues, no case is made out by the petitioner to call for any interference. Apart from that, the scope of exercise of extraordinary jurisdiction is also succinctly propounded by Hon'ble Apex Court and considering such proposition also, the Court is of the opinion that no case is made out by the petitioner. Following are the observations contained in the decision in the case of **Mohd. Inam Vs. Sanjay Kumar Singhal and Others** reported in **(2020)7 SCC 327**, in respect of exercise of extraordinary jurisdiction.

*"34. It is a well settled principle of law, that in the guise of exercising jurisdiction under Article 227 of the Constitution of India, the High Court cannot convert itself into a court of appeal. It is equally well settled, that the supervisory jurisdiction extends to keeping the subordinate tribunals within the limits of their authority and seeing that they obey the law. It has been held, that though the powers under Article 227 are wide, they must be exercised sparingly and only to keep subordinate courts and Tribunals within the bounds of their authority and not to correct mere errors. Reliance in this respect can be placed on a catena of judgments of this Court including the ones in Satyanarayan Laxminarayan Hegde & Ors. vs.*

*Millikarjun Bhavanappa Tirumale, Bathutmal Raichand Oswal vs. Laxmibai R.10 (1960) 1 SCR 890 37  
Tarta & Anr.11, M/s India Pipe Fitting Co. vs. Fakruddin M. A. Baker & Anr.12, Ganpat Ladha v. Sashikant Vishnu Shinde, Mrs. Labhkuwar Bhagwani Shaha & Ors. vs. Janardhan Mahadeo Kalan & Anr., Chandavarkar Sita Ratna Rao vs. Ashalata S. Guram, Venkatlal G. Pittie and another vs. Bright Bros (Pvt.) Ltd., State of Maharashtra vs. Milind & Ors., State Through Special Cell, New Delhi vs. Navjot Sandhu Alias Afshan Guru and others, Ranjeet Singh vs. Ravi Prakash, Shamshad Ahmad & Ors. vs. Tilak Raj Bajaj (Deceased) Through LRs. and others, Celina Coelho Pereira (Ms.) and others vs. Ulhas Mahabaleshwar Kholkar and others.”*

11. In light of the aforesaid proposition, and in light of the aforementioned discussion, the Court is of the clear opinion that no case is made out by the petitioner to interfere with the orders under challenge. Accordingly, petitions being devoid of merits stand dismissed with no order as to costs.

12. Since all other cognate petitions are raising similar issues and the lead matter was essentially argued, the present order would govern other sets of petitions which are attached along with the present group of petitions and the same also accordingly dismissed hereby. Rule is discharged. Interim relief if any, stands vacated.

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