IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT: HYDERABAD
CORAM:
*** HON'BLE SRI JUSTICE K.LAKSHMAN**
AND
HON'BLE SMT. JUSTICE K.SUJANA
+ W.P.(PIL) NOs.76 AND 79 OF 2023
% Delivered on: 27-06-2025

W.P.(PIL) NO.76 OF 2023

Between:
Koti Raghunatha Rao .. Petitioner

Vs.

$ The State of Telangana rep. by the
Chief Secretary, Secretariat, Hyderabad
and others .. Respondents

W.P.(PIL) NO.79 OF 2023

Between:
A. Venkatarami Reddy, .. Petitioner

Vs.

$ The State of Telangana rep. by the
Chief Secretary, Secretariat, Hyderabad
and others .. Respondents

! For Petitioner — Mr. Koti Raghuntha Rao, party-in-person in W.P. (PIL) No. 76 of 2023.

Mr. Satyam Reddy, learned senior counsel rep. Ms. K.V. Rajasree, learned counsel for the Petitioner in W.P. (PIL) No. 79 of 2023.

^ For Respondents — Mr. A. Sudershan Reddy, learned Advocate General for R.1 to 3 in both the PILs.
Mr. D. Prakash Reddy, learned senior counsel rep. Mr. Mallipedi Abhinay Reddy, learned counsel for R.4 in W.P. (PIL) No. 76 of 2023.

Mr. Vikram Pooserla, learned senior counsel rep.Mr. Mallipedi Abhinay Reddy, learned counsel for R.5 appeared in W.P. (PIL) No. 79 of 2023.

Mr. Avinash Desai, learned senior counsel for R.4 appeared in W.P. (PIL) No. 76 of 2023.

Mr. G. Vidya Sagar, learned senior counsel rep. Mrs. K. Udaya Sri, learned counsel for R.5 in W.P. (PIL) No. 76 of 2023.

<Gist

> Head Note

? Cases Referred

1. (1996) 6 SCC 530.
2. (1980) 4 SCC 1.
3. (1987) 2 SCC 295.
4 (2011) 5 SCC 29.
5 (2022) 16 SCC 703.
6 (2012) 11 SCC 434.
7 (2000) 10 SCC 664.
8 (2007) 4 SCC 737.
9 (2021) 15 SCC 600.
10 2024 SCC OnLine SC 3432.
11. 2001 SCC OnLine AP 913.
12 1984 SCC OnLine AP 151.
13 (2008) 1 SCC 722.
14 (1991) 4 SCC 243.
15 (2025) 2 SCC 128
16 (2011) 6 SCC 125
17 (2018) 18 SCC 65

HON'BLE SRI JUSTICE K. LAKSHMAN
And
HON'BLE SMT JUSTICE K. SUJANA

W.P. (PIL) Nos. 76 and 79 of 2023

COMMON ORDER: (Per Hon'ble Sri Justice K.Lakshman

The present public interest litigations (hereinafter 'PILs') are filed challenging three government orders *viz.*, G.O. Ms. No. 126 dated 26.12.2021 whereby the Government of Telangana (Respondent No. 1) allotted land bearing Plot No. 27 admeasuring Ac. 3.70 in Sy. No. 83/1, Raidurg village, Sherilingampally mandal, R.R. District (hereinafter 'subject land') in favour of the International Arbitration & Mediation Centre (hereinafter 'IAMC'); G.O. Ms. No. 76 dated 12.11.2021 and G.O. Ms. No. 365 dated 16.07.2022 whereby Respondent No. 1 granted financial aid of Rs. 3 crores to the IAMC; and G.O. Ms. No. 6 dated 17.03.2022 whereby Respondent No. 1 directed all its departments and public sector undertakings to refer all its disputes above Rs. 03 crores to the IAMC for arbitration.

2. Heard Mr. Koti Raghuntha Rao, party-in-person in W.P. (PIL) No. 76 of 2023 and Mr. Satyam Reddy, learned senior

counsel representing Ms. K.V. Rajasree, learned counsel for the Petitioner in W.P. (PIL) No. 79 of 2023. Also, heard Mr. A. Sudershan Reddy, learned Advocate General appearing for Respondent Nos. 1 to 3 in both the PILs and Mr. D. Prakash Reddy, learned senior counsel representing Mr. Mallipedi Abhinay Reddy, learned counsel for Respondent No. 4 in W.P. (PIL) No. 76 of 2023. Mr. Vikram Pooserla, learned senior counsel representing Mr. Mallipedi Abhinay Reddy, learned counsel for Respondent No. 5 appeared in W.P. (PIL) No. 79 of 2023. Mr. Avinash Desai, learned senior counsel for Respondent No. 4 appeared in W.P. (PIL) No. 76 of 2023. Mr. G. Vidya Sagar, learned senior counsel representing Mrs. K. Udaya Sri, learned counsel for Respondent No. 5 in W.P. (PIL) No. 76 of 2023 was also heard.

3. **CONTENTIONS OF THE PETITIONERS: -**

i. The entire case of the Petitioners is that the Government by issuing the impugned G.O.s has abused its powers and caused significant financial loss to the public exchequer. In relation to G.O. Ms. No. 126 dated 26.12.2021, they contended that the subject land being very valuable could not

have been allotted to the IAMC free of cost. According to them, the value of the subject land runs into hundreds of crores. They contended that Sections 19 & 20 of the Telangana Urban Areas Development Act, 1975 provide that government land can only be disposed by way of sale or exchange or lease or public auction. According to them, there is no provision permitting the government to allot land free of cost. Therefore, allotment of land to the IAMC is arbitrary. They relied on **Common Cause, A Registered Society (Petrol pumps matter) v. Union of India**[1], **Kasturi Lal Lakshmi Reddy v. State of J&K**[2], **Sachidanand Pandey v. State of W.B.**[3], **Akhil Bhartiya Upbhokta Congress v. State of M.P.**[4], and **State of Odisha v. Pratima Mohanty**[5], to contend that state largesse cannot be arbitrarily distributed and discretionary free allotment of land is unsustainable.

[1](1996) 6 SCC 530.
[2](1980) 4 SCC 1.
[3](1987) 2 SCC 295.
[4](2011) 5 SCC 29.
[5](2022) 16 SCC 703.

ii. They contended that IAMC is not a statutory body. According to them, it is a private body making profits and also enjoying grant-in-aid from the government. Support of such private institutions, according to the Petitioners, is illegal and is not supported by any law.

iii. In relation to G.O. Ms. No. 365 dated 16.07.2022 granting annual financial aid, the Petitioners contended that the IAMC charges huge fee to conduct arbitration and mediation proceedings and makes money. Therefore, the government's decision to provide financial assistance to the institution is arbitrary.

iv. Likewise, in relation to G.O. Ms. No. 6 dated 17.03.2022, the Petitioners contended that the government's decision to refer all its disputes to the IAMC creates additional financial burden on the exchequer, given the high fee charged by IAMC to conduct arbitrations and mediations.

v. The Petitioners also expressed an apprehension that the allotment of land, the financial assistance, and the reference

of government disputes to the IAMC involves favourtisim and possible misuse of the allotted land. Relying on the trust deed which created the IAMC, the Petitioners argued that the board of trustees of the IAMC have the power to sell the properties vested in them. Therefore, government land, worth crores of rupees, has been vested in a trust which has the power to sell the same. The allotment of land to the IAMC is also challenged on the ground that no justifiable public purpose exists.

vi. In relation to the high-level committee report dated 30.07.2017 based on which the IAMC was established and the impugned G.O.s were issued, the Petitioners contended that the said committee is not a statutory body. Therefore, the recommendations of such a committee should not have been accepted by the State Government and land could not have been allotted free of cost.

4. **CONTENTIONS OF THE RESPONDENTS:**

i. Respondent Nos. 1 and 2 (Government of Telangana) contended that the allotment of land in favour of the IAMC

was justified on the ground that a high-level committee constituted by the Central Government had submitted its recommendations *vide* a letter dated 30.07.2017 to promote institutional arbitration in India. In the said letter, the committee suggested that there is a need for an institution similar to that of Singapore International Arbitration Centre (hereinafter 'SIAC'), London Court of International Arbitration (hereinafter 'LCIA'), Hong Kong International Arbitration Centre (hereinafter 'HKIAC'), etc. in India. Therefore, the IAMC was formed *vide* a trust deed dated 20.08.2021 executed by the then Chief Justice of India. Pursuant to the said trust deed, a Memorandum of Understanding (hereinafter 'MoU') was entered into between the State of Telangana and the IAMC, whereby it was agreed that the State will support the IAMC by allotting land.

ii. Respondent Nos. 1 and 2, in their counter affidavit, further stated that they had the power to allot the subject land under Section 25 of the Telangana Land Revenue Act, 1317 Fasli. They justified the allotment on the ground that the same was

for a public purpose and permissible under the Telangana Land Revenue Act, 1317 Fasli.

iii. Respondent No. 3 (the Revenue Department of the Government of Telangana) also reiterated the submissions made by Respondent Nos. 1 and 2. They justified the allotment of the land on the ground that IAMC is a public charitable trust and is a ‘not for profit organization’. They contended that the allotment was for a public purpose i.e., for providing ‘world class mediation and arbitration centre for all sections of the society’.

iv. Respondent No. 4, i.e., the IAMC also took the same stand as that of the Government of Telangana. Extensive and heavy reliance was placed on the high-level committee report dated 30.07.2017 which stated that institutional arbitration in the country should be supported by the government. It was argued that government support to arbitral institutions is common across the globe and all the well-known international arbitration centres were supported by their respective governments.

v. Referring to the trust deed dated 20.08.2021, the IAMC highlighted that the board of trustees includes Supreme Court judges, the Law Minister for the State of Telangana, and the Chief Minister for the State of Telangana. Therefore, the composition of the board involves elected public officials and the judges themselves. This, according to the IAMC, ensures transparency and autonomy. Further, the IAMC, in its counter affidavit, contended that the budgetary allotment by the Government of Telangana is transparent.

vi. Like the other Respondents, the IAMC relied on Section 25 of the Telangana Land Revenue Act, 1317 Fasli to contend that the government can allot land for any suitable public purpose. In addition to the Telangana Land Revenue Act, 1317 Fasli, the IAMC also relied on Part 4 of the Government Land Allotment policy which lays down the procedure for allotment of land. The IAMC contended that the said procedure was followed while allotting the subject land.

vii. In addition to the above submissions, the IAMC also contended that the PILs are not maintainable as the Petitioners have no locus standi. It was contended that the Petitioners failed to make out any case against the land allotted to the IAMC as no illegal or improper conduct has been averred or attributed.

5. To sum up, all the Respondents contended that the land was allotted and financial assistance was rendered pursuant to the recommendations of the high-level committee constituted by the Central Government. All the Respondents relied on Section 25 of the Telangana Land Revenue Act, 1317 Fasli to contend that the subject land was allotted under the said provision.

FINDINGS OF THE COURT:

6. Before going into the merits of the case, this Court would like to point out that though the IAMC (Respondent No. 4) contended that the Petitioners have no locus standi, the same was not seriously contested by them or any of the other Respondents. Further, considering the nature of the case and the contentions

raised by the parties, this Court deems it appropriate to decide the present PILs on merits.

7. Since the dispute concerns allotment of land and financial assistance to the IAMC, it is important to discuss its establishment. A trust deed dated 20.08.2021 was authored by the then Chief Justice of India creating and declaring the IAMC as a public charitable trust. The recitals of the trust deed stated that the Trust was being formed with the object to encourage alternative dispute resolution process in India. Further, it was stated that the Government of Telangana had offered to extend infrastructure and financial assistance to the IAMC. One of the important features of the trust deed is that it is managed by a board of trustees. Clause 4 of the trust deed states that the board will include (i) two life trustees; (ii) two ex-officio trustees; and (iii) three term trustees.

8. Clause 4.5 provides that the term of the life trustees will be the end of their life or till they resign. In case of a vacancy to the post of a life trustee, the remaining members of the board will appoint a new life trustee. Clause 4.6 provides that the ex-officio trustees will always be the (i) Chief Justice of the Telangana High

Court; and (ii) the Minister of Law, Government of Telangana. The term trustees, as per Clause 4.4, are to be nominated by the life trustees. The term trustees can be retired Telangana High Court judges or Supreme Court judges or experts from the industry. Clause 5.2(c) provides that the properties of the IAMC will include gifts, grants and contributions by the governments. Another important clause relevant to the case is Clause 6(d), which states that the board of trustees will have the power to sell the properties of the IAMC. Clause 5.3 provides that trustees will not be paid out of any of the funds of the Trust by way of remuneration, profit, interest, dividend, or otherwise. Likewise, Clause 12 states that the trustees are not entitled for any remuneration.

9. Pursuant to the trust deed dated 20.08.2021, the IAMC and the Government of Telangana entered into an MoU dated 27.10.2021. Clause 2 of the MoU, relying on the high-level committee report dated 30.07.2021, stated that there is a need to support arbitral institutions like the IAMC. Under Clause 3 of the MoU, the Government of Telangana agreed to provide land, building and IT infrastructure to the IAMC. Under the said Clause,

the Government of Telangana agreed to allot five (05) acres of land at a business-friendly location to the IAMC. The Government of Telangana also undertook to construct the building for the IAMC. Further, till the allocation of land and the construction of the building, the Government of Telangana agreed to provide an office space to the IAMC. Under Clause 4, the Government of Telangana agreed to provide financial assistance of Rs. 3 crores to the IAMC for a minimum period of 05 (five) years.

10. In terms of the MoU, the impugned government order i.e., G.O. Ms. No. 126 dated 26.12.2021 was issued by the Government of Telangana allotting the subject land to the IAMC. The said G.O. stated that the land shall be used for the purpose of an arbitral institution and that the terms of allotment will be informed separately. It is pertinent to note that no terms of allotment have been placed on record before this Court. Further, under the said G.O., the Telangana State Industrial Infrastructure Corporation Ltd. (hereinafter 'TSIIC') was directed to handover the possession of the subject land to the IAMC. The said G.O. is extracted below:

REVENUE (ASSIGNMENT.II) DEPARTMENT

G.O.Ms.No.126 **Dated:26.12.2021**

Read thefollowing:-

1. MOU entered between Government of Telangana and Trustees of the IAMC, Hyderabad
2. The letter of the Registrar General of the Hon'ble High Court of Telangana,ROC No.2462/SO/2021, dated:21.12.2021.

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ORDER:-

In the reference 1st read above, an MoU entered into by the International Arbitration & Mediation Center(IAMC) Trust, Hyderabad and Government of Telangana. Accordingly the Trustees of IAMC has requested for allotment of land for establishment of International Arbitration & Mediation Center (IAMC) at Hyderabad.

2. Government, after careful examination of the matter, hereby order for allotment of Government land to an extent of Acs.3.70, Plot No.27 in Sy.No.83/1 of Raidurg (V) of Sherilingampally (M), Ranga Reddy District for establishment of International Arbitration & Mediation Center (IAMC) at Hyderabad. The land should be utilised for the purpose for which it has been allotted and other terms of allotment shall be informed separately.

3. The Principal Secretary to Government & CIP, Industries and Commerce Department, Government of Telangana and the Vice Chairman & Managing Director, Telangana State Industrial Infrastructure Corporation Limited shall take necessary further action for handing over possession of the subject land to the IAMC Trust, Hyderabad.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

SOMESH KUMAR
CHIEF SECRETARY TO GOVERNMENT

11. On 02.02.2022, the TSIIC issued a possession certificate handing over the possession of the subject land to the IAMC. It is noteworthy that as on the date of handing over the possession, no terms of allotment were formulated and communicated to the IAMC.

12. Similarly, pursuant to the MoU, the Government of Telangana issued the other impugned government orders *viz.*, G.O. Ms. No. 76 dated 12.11.2021 and G.O. Ms. No. 365 dated

16.07.2022 granting Rs. 3 crores as financial aid to the IAMC; and G.O. Ms. No. 6 dated 17.03.2022 whereby Respondent No. 1 directed all its departments and public sector undertakings to refer all its disputes above Rs. 03 crores to the IAMC for arbitration.

13. The relevant portion of G.O. Ms. No. 6 is extracted below:

> 3. According to Clause-5 (**IACH's Case Management Services)** of the Memorandum of Understanding, Government hereby direct all the Ministries, Departments, Public Sector Companies, and other entities controlled or managed by the Government of Telangana:
>
> (i) to designate IAMCH as the arbitral / mediation institution in all their contracts, agreements, purchase orders, etc. (Contracts) having value of more than Rs.3 crores (Rupees three crores only) and containing an arbitration clause;
>
> (ii) in respect of subsisting Contracts of value of more than Rs.10 crores (Rupees ten crores only) to discuss with the counterparty to such Contract a suitable amendment to designate IAMCH as the arbitral / mediation Institution; and
>
> (iii) in respect of ongoing ad-hoc arbitrations of the value more than Rs.10 crores (to which Government of Telangana, or its instrumentalities are parties) to make a request to the arbitral Tribunal to utilize the services of the IAMCH for conducting their arbitration.

14. Before going into the legality of the impugned G.O.s, this Court would like to point out that allotment of government land and distribution of other state largesse falls within the realm of

government policy. Such policy decisions are discretionary. Such discretion, however, is to be exercised in a fair and transparent manner. While the grounds to challenge such policy decisions are limited, the courts can interfere with a policy decision where the discretionary allotment of state largesse is patently arbitrary, marred with favouritism, grossly unreasonable, flagrantly discriminatory, and contrary to any applicable law. However, where the distribution and allotment of state largesse is for a public purpose and is supported by law, the courts should be slow in interfering.

15. In this regard, it is relevant to note that the Supreme Court in **Saroj Screens (P) Ltd. v. Ghanshyam**[6], held that discretionary allotment of state resources is subject to the test of reasonableness and the applicable statutory law. The relevant paragraphs are extracted below:

> **33.** The concept of the "State" as it was known before the commencement of the Constitution and as it was understood for about two decades after 26-1-1950 has undergone drastic change in recent years. Today, the State

[6](2012) 11 SCC 434.

cannot be conceived of simply as a coercive machinery wielding the thunderbolt of authority. Now the Government is a regulator and dispenser of special services and provides to the large public benefits including jobs, contracts, licences, quotas, mineral rights, etc. The law has also recognised changing character of the governmental functions and the need to protect individual interest as well as public interest**. The discretion of the Government has been held to be not unlimited. The Government cannot give or withhold largesse in its arbitrary discretion or according to its sweet will. The Government cannot now say that it will transfer the property (land, etc.) or will give jobs or enter into contracts or issue permits or licences only in favour of certain individuals.**

34. In *V. Punnen Thomas* v. *State of Kerala* [AIR 1969 Ker 81] , K.K. Mathew, J. (as he then was) observed: (AIR p. 90, para 19)

"*19.* … the Government is not and should not be as free as an individual in selecting the recipients for its largesse. Whatever its [activities,] the Government is still the Government and will be subject to restraints, inherent in its position in a democratic society. A democratic Government cannot lay down arbitrary and capricious standards for the choice of persons with whom alone it will deal."

35. <u>The traditional view that the executive is not answerable in the matter of exercise of prerogative power has long been discarded</u>. Prof. H.W.R. Wade in his work *Administrative Law*, 6th Edn. highlighted the distinction between the powers of public authorities and those of private persons in the following words:

"… The common theme of all the authorities so far mentioned is that the notion of absolute or unfettered discretion is rejected. Statutory power conferred for public purposes is conferred as it were upon trust, not absolutely—that is to say, it can validly be used only in the right and proper way which Parliament when conferring it is presumed to have intended. Although the Crown's lawyers have argued in numerous cases that unrestricted permissive language confers unfettered discretion, the truth is that, in a system based on the rule of law, unfettered governmental discretion is a contradiction in terms.

The whole conception of unfettered discretion is inappropriate to a public authority, which possesses powers solely in order that it may use them for the public good.

There is nothing paradoxical in the imposition of such legal limits. It would indeed be paradoxical if they were not imposed. Nor is this principle an oddity of British or American law; it is equally prominent in French law. Nor is it a special restriction which fetters only local

authorities: it applies no less to Ministers of the Crown. Nor is it confined to the sphere of administration: it operates wherever discretion is given for some public purpose, for example where a Judge has a discretion to order jury trial. It is only where powers are given for the personal benefit of the person empowered that the discretion is absolute. Plainly this can have no application in public law.

For the same reasons there should in principle be no such thing as unreviewable administrative discretion, which should be just as much a contradiction in terms as unfettered discretion. The question which has to be asked is what is the scope of judicial review, and in a few special cases the scope for the review of discretionary decisions may be minimal. It remains axiomatic that all discretion is capable of abuse, and that legal limits to every power are to be found somewhere."

36. In *Padfield* v. *Minister of Agriculture, Fisheries and Food* [1968 AC 997 : (1968) 2 WLR 924 : (1968) 1 All ER 694 (HL)] the Court was called upon to decide whether the Minister had the prerogative not to appoint a committee to investigate the complaint made by the members of the Milk Marketing Board that majority of the Board had fixed milk prices in a way which was unduly unfavourable to the complainants. While rejecting the theory of absolute discretion, Lord Reid observed: (AC p. 1030 C)

"… Parliament must have conferred the discretion with the intention that it should be used to promote the policy and objects of the Act; the policy and objects of the Act must be determined by construing the Act as a whole and construction is always a matter of law for the court. In a matter of this kind it is not possible to draw a hard-and-fast line, but if the Minister, by reason of his having misconstrued the Act or for any other reason, so uses his discretion as to thwart or run counter to the policy and objects of the Act, then our law would be very defective if persons aggrieved were not entitled to the protection of the court."

37. In *Breen* v. *Amalgamated Engg. Union* [(1971) 2 QB 175 : (1971) 2 WLR 742 : (1971) 1 All ER 1148 (CA)] Lord Denning, M.R. observed: (QB p. 190 B-C)

"… The discretion of a statutory body is never unfettered. It is a discretion which is to be exercised according to law. That means at least this: the statutory body must be guided by relevant considerations and not by irrelevant. If its decision is influenced by extraneous considerations which it ought not to have taken into account, then the decision cannot stand. No matter that the statutory body may have acted in good faith; nevertheless the decision will be set aside. That is established by *Padfield* v. *Minister of Agriculture, Fisheries and Food* [1968 AC 997 : (1968) 2 WLR 924 : (1968) 1 All ER 694 (HL)] which is a landmark in modern administrative law."

38. The question whether the State and/or its agency/instrumentality can transfer the public property or interest in public property in favour of a private person by negotiations or in a like manner has been considered and answered in negative in several cases. In *Akhil Bhartiya Upbhokta Congress* v. *State of M.P.* [(2011) 5 SCC 29 : (2011) 2 SCC (Civ) 531] this Court was called upon to examine whether the Government of Madhya Pradesh could have allotted 20 acres land to Shri Kushabhau Thakre Memorial Trust under the M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973 read with the M.P. Nagar Tatha Gram Nivesh VikasitBhoomiyo, Griho, Bhavano Tatha Anya Sanrachanao Ka Vyayan Niyam, 1975. After noticing the provision of the Act and the Rules, as also those contained in the M.P. Revenue Book Circular and the judgments of this Court in *S.G. Jaisinghani* v. *Union of India* [AIR 1967 SC 1427] , *Ramana Dayaram Shetty* v. *International Airport Authority of India*[(1979) 3 SCC 489] , *Erusian Equipment and Chemicals Ltd.* v. *State of W.B.* [(1975) 1 SCC 70] , *Kasturi Lal Lakshmi Reddy* v. *State of J&K* [(1980) 4 SCC 1] , *Common Cause* v. *Union of India* [(1996) 6 SCC 530] , *Shrilekha Vidyarthi* v. *State of U.P.* [(1991) 1 SCC 212 : 1991 SCC (L&S) 742] , *LIC* v. *Consumer Education & Research Centre* [(1995) 5 SCC 482] and *New India Public School* v. *HUDA* [(1996) 5 SCC 510] , the Court culled out the following propositions: (*Akhil Bhartiya*

Upbhokta case [(2011) 5 SCC 29 : (2011) 2 SCC (Civ) 531] , SCC p. 60, paras 65-66)

"*65.* What needs to be emphasised is that the State and/or its agencies/instrumentalities cannot give largesse to any person according to the sweet will and whims of the political entities and/or officers of the State. Every action/decision of the State and/or its agencies/instrumentalities to give largesse or confer benefit must be founded on a sound, transparent, discernible and well-defined policy, which shall be made known to the public by publication in the Official Gazette and other recognised modes of publicity and such policy must be implemented/executed by adopting a non-discriminatory and non-arbitrary method irrespective of the class or category of persons proposed to be benefited by the policy. The distribution of largesse like allotment of land, grant of quota, permit licence, etc. by the State and its agencies/instrumentalities should always be done in a fair and equitable manner and the element of favouritism or nepotism shall not influence the exercise of discretion, if any, conferred upon the particular functionary or officer of the State.

***66.* We may add that there cannot be any policy, much less, a rational policy of allotting land on the basis of applications made by individuals, bodies, organisations or institutions dehors an invitation or advertisement by the State or its agency/instrumentality.**

> **By entertaining applications made by individuals, organisations or institutions for allotment of land or for grant of any other type of largesse the State cannot exclude other eligible persons from lodging competing claim. Any allotment of land or grant of other form of largesse by the State or its agencies/instrumentalities by treating the exercise as a private venture is liable to be treated as arbitrary, discriminatory and an act of favouritism and/or nepotism violating the soul of the equality clause embodied in Article 14 of the Constitution."**
>
> (emphasis supplied)

16. Likewise, the courts while adjudicating a challenge to a government policy will not question the wisdom of the executive. The role of the courts is limited to examine whether the policy decision is against any statutory law and does it violate any fundamental rights. The need for such a policy, its modalities and the process of its implementation cannot be examined by the courts.

17. In **Narmada Bachao Andolan v. Union of India**[7], the Supreme Court held as follows:

[7](2000) 10 SCC 664.

> *229.* It is now well settled that the courts, in the exercise of their jurisdiction, will not transgress into the field of policy decision. **Whether to have an infrastructural project or not and what is the type of project to be undertaken and how it has to be executed, are part of policy-making process and the courts are ill-equipped to adjudicate on a policy decision so undertaken. The court, no doubt, has a duty to see that in the undertaking of a decision, no law is violated and people's fundamental rights are not transgressed upon except to the extent permissible under the Constitution.**

18. Also, the decision in **Directorate of Film Festivals v. Gaurav Ashwin Jain**[8], is relevant. The Supreme Court therein has held that only the legality of the policy is to be tested and not the wisdom of the policy. Therefore, a legal policy contrary to the statutory law can be set aside. The relevant paragraph is extracted below:

> **16.** The scope of judicial review of governmental policy is now well defined. Courts do not and cannot act as Appellate Authorities examining the correctness, suitability and appropriateness of a policy, nor are courts advisors to the executive on matters of policy which the executive is entitled to formulate. **The scope of judicial**

[8](2007) 4 SCC 737.

> **review when examining a policy of the Government is to check whether it violates the fundamental rights of the citizens or is opposed to the provisions of the Constitution, or opposed to any statutory provision or manifestly arbitrary. Courts cannot interfere with policy either on the ground that it is erroneous or on the ground that a better, fairer or wiser alternative is available. Legality of the policy, and not the wisdom or soundness of the policy, is the subject of judicial review (vide *Asif Hameed* v. *State of J&K* [1989 Supp (2) SCC 364] , *Sitaram Sugar Co. Ltd.* v. *Union of India* [(1990) 3 SCC 223] , *Khoday Distilleries Ltd.* v. *State of Karnataka*[(1996) 10 SCC 304] , *BALCO Employees' Union* v. *Union of India* [(2002) 2 SCC 333] , *State of Orissa* v. *Gopinath Dash* [(2005) 13 SCC 495 : 2006 SCC (L&S) 1225] and *Akhil Bharat Goseva Sangh (3)* v. *State of A.P.* [(2006) 4 SCC 162])**

19. While a policy decision of the government is presumed to be in public interest, the same can be challenged in exceptional circumstances like arbitrariness and violation of statutory or constitutional law. In this regard, it is relevant to note that in **State of U.P. v. Abhay Nandan Inter College**,[9] The Supreme Court held that a policy decision of the government is presumed to be in

[9](2021) 15 SCC 600.

public interest and can be challenged only in exceptional circumstances. The relevant paragraph is extracted below:

> **36.** A policy decision is presumed to be in public interest, and such a decision once made is not amenable to challenge, until and unless there is manifest or extreme arbitrariness, a constitutional court is expected to keep its hands off.

20. In its recent decision in **State of A.P. v. Rao, V.B.J. Chelikani**[10], the Supreme Court dealt with government orders issued by the Government of Telangana allotting lands in prime commercial areas to a select class of citizens (judges, politicians, and journalists) at a discounted rate. While setting aside the said government orders, the Supreme Court held as follows regarding discretionary land allotment policy:

> **46.** Thus, time and again, this Court has held that while the power to distribute and redistribute public assets and resources lie within the State's discretion, such discretion is not absolute. Article 14 and the logic of equality impose fetters on the exercise of this discretionary power. Therefore, it cannot be questioned or contested that state

[10]2024 SCC OnLine SC 3432.

policy and executive action must satisfy the rigours of Article 14.

21. In **Road Metal Industry v. State**[11], the erstwhile High Court of Andhra Pradesh, held that the government cannot allot or alienate land at its sweet will. The discretion to allot land is not absolute and such allotments have to be in line with the applicable statutory rules and must satisfy the test of reasonableness. The relevant paragraphs are extracted below:

> **22. The land in question is admittedly a Government land. It is a public property. It is a valuable land adjoining the city of Hyderabad. The executive is entrusted with the duty to protect and manage the natural resources that vest in the community. All such natural resources and properties are held by the Government in trust for and on behalf of the people. The community is the owner of such resources. No Government can be heard in saying that it can grant any Government land on such terms as it deems fit to any person of its choice. The natural resources including the land are required to be used and exploited only for public good. Public interest is paramount consideration.**

[11]2001 SCC OnLine AP 913.

23. **The Government has no unlimited discretion in the matter of granting largesse. The Government cannot give largesse in its arbitrary discretion or at its sweet will or on such terms as it chooses in its absolute discretion. The Supreme Court held that there are two limitations imposed by law which structure and control the discretion of the Government in this behalf. The first is in regard to the terms on which largesse may be granted and the other, in regard to the persons who may be recipients of such largesse.** (See: *Ramana Dayaram Shetty* v. *International Airport Authority of India* (1979) 3 SCC 489 : (AIR 1979 SC 1628) and *Kasturi Lal Lakshmi Reddy* v. *State of J. and K.* (1980) 4 SCC 1 : (AIR 1980 SC 1992).

24. It is very well settled that, unlike a private individual, the State cannot act as it pleases in the matter of giving largess. The Government is not free to act as it likes in selling or leasing out its property. The property is not of the Government, but of the State. The Government of the day holds such property as a custodian for and on behalf of the people. The activity of the Government is subject to restraints inherent in its position in a democratic society. **A system Governed by rule of law and constitutionalism does not permit exercise of power conferred on the Government in an arbitrary, capricious or in unprincipled manner**. It is needless to reiterate that every activity of the Government has a public

> element in it and is required to be informed with reason and guided by public interest. The actions of the Government in dealing with the properties of the State are liable to be tested for its validity on the touchstone of reasonableness and public interest and if it fails to satisfy either test, it would be unconstitutional and invalid.

22. In the present case, this Court agrees with the case law relied upon by the Petitioners that the High Courts in exercise of their writ jurisdiction can interfere with arbitrary policy decisions of land allotment and where such land allotment is contrary to the statutory rules. Given the aforesaid discussion on the scope of judicial review in government policy, the only questions before this Court are whether the impugned G.O.s allotting land, providing financial assistance, and referring its disputes above 03 crores to the IAMC are arbitrary or contrary to any statutory rules.

23. This Court would first like to consider the validity of G.O. Ms. No. 126 dated 26.12.2021 whereby the subject land admeasuring Ac. 3.70 was allotted to the IAMC. In the State of Telangana, allotment and alienation of government lands is governed under two sets of law:

(i) Section 25 of the Telangana Land Revenue Act, 1317 Fasli and the rules made thereunder i.e., Andhra Pradesh (Telangana Area) Alienation of State Lands and Land Revenue Rules, 1975;

(ii) G.O. Ms. No. 571 dated 14.09.2012 issued by the Revenue (Assignment I) department whereby uniform guidelines were laid down and the 'Government Land Allotment Policy' was farmed.

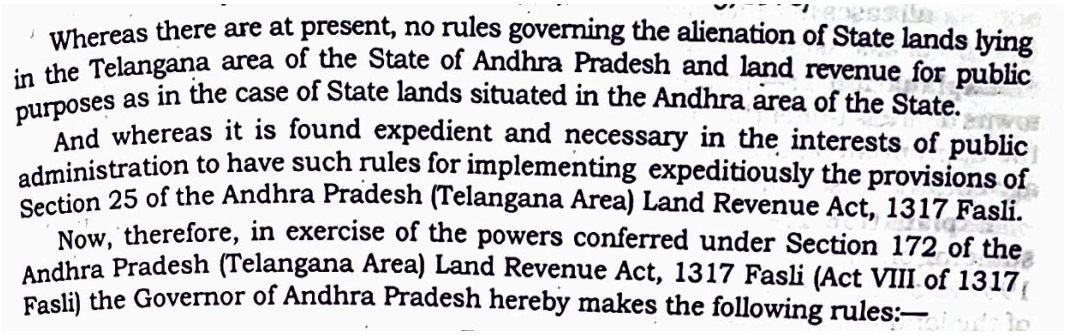
ALIENATION OF GOVERNMENT LANDS UNDER SECTION 25 OF THE TELANGANA LAND REVENUE ACT, 1317 FASLI AND THE RULES THEREUNDER:

24. Section 25 of the Telangana Land Revenue Act, 1317 Fasli recognizes the power of the government to assign lands for government purposes or for public purposes. The said provision is extracted below:

> **25. Assigning of land for special purposes to be lawful.**
>
> When a village is under settlement, the Commissioner of Survey Settlement or the Commissioner of Land Records in that Village and in other cases with the sanction of the Board of Revenue, the Collector may, subject to the orders of the Government set apart any Khalsa land not in the lawful occupation of any person or class for pasturage of cattle or for grass reserves or for other Government purposes or for the purposes of public benefit; provided

that it does not interfere with any right of any person or class. The land so set apart shall not be otherwise appropriated without the order of the Board of Revenue.

25. Pursuant to the power under Section 25 and the Rule making power under Section 172, the erstwhile Government of Andhra Pradesh, noting that there were no rules governing the alienation of state lands, framed the Andhra Pradesh (Telangana Area) Alienation of State Lands and Land Revenue Rules, 1975 (hereinafter 'Rules, 1975'). The preamble of the Rules, 1975 is extracted below:



Whereas there are at present, no rules governing the alienation of State lands lying in the Telangana area of the State of Andhra Pradesh and land revenue for public purposes as in the case of State lands situated in the Andhra area of the State.

And whereas it is found expedient and necessary in the interests of public administration to have such rules for implementing expeditiously the provisions of Section 25 of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli.

Now, therefore, in exercise of the powers conferred under Section 172 of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli (Act VIII of 1317 Fasli) the Governor of Andhra Pradesh hereby makes the following rules:—

26. Under the Rules, 1975, Rule 2(b) defines 'alienation of land' as disposal of land for a public purpose. Further, Rule 2(f) defines 'land' as land belonging to the Government in the Telangana area. Rule 2(h) provides that 'local body' and 'local authority' include 'gram panchayats' and 'panchayat samithis'.

Rule 2(j) defines ‘public purpose’ as a purpose which confers a benefit on a considerable section of the community or locality or region. Public purpose is said to include construction of schools, temples, churches, mosques, choultries, roads, hospitals, and office buildings of local bodies and authorities. The definition of public purpose is restricted only to primary public purpose. Any ancillary purpose cannot be termed as public purpose to allot land. The said provisions are extracted below:

> **2 (b)** Alienation of Land means placing land at the disposal of ..... for a public purpose [or for any specified purpose].
>
> **2 (f)** Land means land belongings to the State Government of Andhra Pradesh and situate in the Telangana area of the State of Andhra Pradesh.
>
> **2 (h)** The terms "Local Body" "Local Authority" and "Local Fund" wherever they occur in these rules, include Gram Panchayats under the Andhra Pradesh Gram Panchayats Act, 1961 and also "Panchayat Samithis" under the Andhra Pradesh Zilla Parishads and Panchayat Samithies Act, 1959.
>
> **2 (j)** Public Purpose means a purpose which confers or is conductive to the good of a considerable section of the community at large or of the locality or region, like the construction of schools, temples, churches, mosques,

> choultries, roads, hospitals and office buildings of a local body or local authority proper but not any purpose which is but ancillary to a public purpose.

27. Likewise, Rule 3 deals with the general principles of alienation of state lands. Rule 3(a) provides that state land can only be alienated for a public purpose. Alienations under the said Rule can be divided into two parts: (i) alienation in favour of local bodies and local authorities for unremunerative or remunerative public purpose; (ii) alienation in favour of a company, private individual, or institution. Under Rule 3(a), it is pertinent to note that alienation of state land free of cost is only permissible in favour of a local body or a local authority for an unremunerative public purpose. In case where the land is sought to be alienated in favour of a local body or a local authority, the government should and is entitled to charge market value of such land. Likewise, in case, where the land is sought to be alienated in favour of a private institution or a private individual or a company, the government should and is entitled to charge market value of such land. Therefore, land can be alienated in favour of a private individual or

institution or company only after collecting the applicable market value.

28. It is relevant to also discuss Rule 3(b). It provides that no alienation in favour of a private individual or a company or an institution shall be considered unless such private individual or company or institution is a registered under the Companies Act. For the sake of convenience, Rule 3 of the Rules, 1975 is extracted below:

> **3. General Principles.**
>
> (a) Alienation of State land to a local body or local authority for unremunerative public purposes will ordinarily be allowed or made free of any initial charge for occupancy right (i.e.) free of the market value of or the value of the occupancy right in the land. Where, however, the land to be alienated has been previously acquired at the expense of the Government and in the case of alienation of land to local bodies or local authorities for remunerative public purposes and **of alienation to a company, private individual or institution for any public purpose the question of collecting the market value of the land from the alienation will be considered.**
>
> **(b) No application for alienation of land under these Rules to a company, association, society, institution or any other corporate body should be considered unless**

> **such company, association, society institution or other corporate body has been registered under the Indian Companies Act VII of 1913.**
>
> (c) Applications for alienation of lands for educational purposes whether from local bodies or local authorities (including Gram Panchayat) or from private associations or individuals should be addressed to the District Collector through the District Educational Officer in the case of institutions for boys and through the Inspectors of Girls Schools in the case of institutions for girls.
>
> (emphasis supplied)

29. It is pertinent to note that Rule 3 of the Rules, 1975 was considered by a Division Bench of the erstwhile A.P. High Court in **Astapuram Kondaiah v. Govt. of AP**[12], to mean that alienation in favour of a private individual, company, or institution can only be done where a public purpose exists. Further, such alienation is subject to collection of the market value. The relevant paragraphs are extracted below:

> "**7.** It is clear from clause (a) of the Rules that the alienation of State land to a local body or local authority shall ordinarily be allowed or made free of any initial charge when the purpose for which the alienation is sought is for a public purpose. Clause (b)

[12]1984 SCC OnLine AP 151.

prohibits entertainment of any application for alienation of State land in favour of a company, association, society, institution or any other corporate body unless the said company, association, society, institution or other corporate body has been registered under the Indian Companies Act, VII of 1913. Clause (c) enables the District Collector to entertain an application for alienation of State Land for educational purposes whether from local bodies or local authorities) including Gram Panchayat or from private associations or individuals. However, the application should be made through the District Educational Officer in the case of institutions for boys and the inspectress of Girls in the case of institutions for girls. A combined and careful reading of the three clauses of the rule makes it abundantly clear that:

(1) Alienation of State land could be permitted for a public purpose, unremunerative or remunerative;

(2) in case of alienation to a local body or local authority for an unremunerative public purpose, the alienation will ordinarily be allowed free of any initial charge, i.e., free of any market value and market value may be collected if the public purpose is remunerative.

(3) When the alienation is in favour of a company, private individual or institution,

the alienation could be permitted on payment of the market value of the land by the alienee;

(4) In the case of an application for alienation of land by a company, association, society, institution or other corporate body, such application shall not be considered unless the said company, association, society, institution or other corporate body is one registered under the Indian Companies Act, VII of 1913 and

(5) Applications for alienation of land for educational purpose, whether from local bodies or local authorities or private associations or individuals should be addressed to the District Collector through the District Educational Officer in the case of institutions for boys and through the Inspectress of girls schools in the case of institutions for girls.

8. The letter and spirit of the rule appears to be to permit alienation of State land on payment of market value in favour of a company, private individual or institution so long as the purpose for which the alienation is sought is public purpose. The determinant for alienation and the protective armoury of the Government is the real purpose for which alienation is sought. The Government could

> order the alienation, whether it is in favour of a company, private individual or institution, when the purpose is a public purpose. Under Rule 4, when the market value of the alienated land exceeds Rs. 10,000/- the orders of the State Government have to be obtained. In this case, the State Government sanctioned the alienation in favour of the management of Loyola High School authorities. It is not disputed that the Jesuit Province Society Hyderabad manages the Loyola High School, Karimnagar, for which the land is assigned. In effect the alienation is in favour of Jesuit Province Society, Hyderabad, a society registered under the Andhra Pradesh (Telangana Area) Public Societies Registration Act. To interpret the rule that it prohibits the alienation even when it is for a public purpose in favour of a registered society would, in our opinion, be to defeat the very purpose and object of the rule. We have, therefore, no hesitation to reject the contention that the alienation falls outside the purview of rule 3 of the Rules."
>
> (emphasis supplied)

30. In the present case, all the Respondents relied upon Section 25 of the Telangana Land Revenue Act, 1317 Fasli to justify the allotment of the subject land in favour of the IAMC. However, none of the Respondents referred to the Rules, 1975 nor

did they place anything on record evidencing the compliance of the said Rules. We find that the allotment of the subject land in favour of the IAMC is contrary to the Rules, 1975.

31. As stated above, alienation of state lands under Rule 3 of the Rules, 1975 in favour of a private body like the IAMC can only be done for a public purpose and after collecting the applicable market value. The Rules, 1975 do not contemplate alienation of government land to a private body free of cost. Likewise, the Rules, 1975 provide that allotment in favour of a private body can only be made if such body is registered under the Companies Act. As is evident from the MoU dated 27.10.2021 and the impugned G.O. Ms. No. 126 dated 26.12.2021, the subject land was allotted in favour of the IAMC without assessing, charging and collecting the market value. Further, as on the date of allotment, the IAMC was not registered as a company. Therefore, the allotment of land in favour of the IAMC is vitiated on account of non-compliance of the applicable Rules.

32. In this regard, it is relevant to note that the Rules, 1975 were examined in **Road Metal Industry (supra)**. The erstwhile

High Court of Andhra Pradesh held the said Rules were intended to control governmental discretion in allotting state lands. It was held that the Rules, 1975 were mandatory in nature and non-conformity of the said Rules renders the allotment ultra vires. The Court noted that even if the allotment was not mala fide, non-compliance of the applicable statutory rules will render such allotment void. The relevant paragraphs are extracted below:

> **30. The Alienation Rules are, obviously, intended to structure and control the discretion of the State Government and its authorities in the matter of alienation of Government lands in favour of local bodies, local authorities as well as private individuals, companies, societies etc.**
>
> **31. The record discloses that no attention has been paid by any of the authorities to these Alienation Rules. It looks as though none of the authorities were even aware of the statutory rules governing the alienation of the State lands in Telangana Area. There is no assessment of market value of the land sought to be alienated in favour of respondents 5 and 6.** There is no finding or even an observation that the lands are sought to be placed at the disposal of respondents 5 and 6 for any public purpose. It is noteworthy that the Alienation Rules

even define "Public Purpose", which we have already noticed supra.

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50. <u>The Alienation Rules as well as the Lease Rules prescribe meaningful statutory standards and realistic procedural requirements to be followed by the Government and its officers in the matter of disposal/alienation/grant of lease of Government lands. Such meaningful statutory standards are prescribed in order to avoid the risk of possible arbitrary use of discretionary power. Those rules are mandatory in nature.</u> The alienation of the Government lands or the lease of the same, as the case may be, in Telangana Area of the State of Andhra Pradesh is to be in conformity with the prescribed standards under the rules referred to hereinabove. **<u>Any decision by the authority or the Government contrary to the said rule may have to be the declared ultra vires.The power to alienate the Government lands can be exercised only in conformity with the rules. The wide powers of the State and the discretion vested in the authority required them to be exercised in a fair manner andhe surest mode of exercise of power fairly is by following and observing the procedures prescribed by the statute or the rules, as the case may be. The observance of the procedure is not a matter of secondary importance. The procedural fairness and regularity have been the great bastion against arbitrariness.</u>**

51. The procedural requirements have not been followed at any stage by any of the authorities. The statutory rules are altogether ignored. The decision has resulted in public mischief. This Court, when such public mischief is exposed, cannot refuse to interfere on the ground that such exposure is by a petitioner to whom no relief could be granted. The petitioner may not get any relief for itself. The petitioner may not have any right in the land in question. Lease may not be extended in its favour. But, those factors do not constitute any ground to uphold the ex facie illegal and improper decision of the Government to allot its valuable land to respondents 5 and 6.

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54. It is noteworthy to observe that none of these factors have been taken into consideration by the Government for allotment of the land in question to the 5th respondent. The genuineness of the organisation and its bona fides are not at all doubted. None of the observations made in this order shall have any bearing whatsoever upon the bona fides of the 5th respondent society. The services rendered by the society for better living of the humanity need not be doubted.

55. But, at the same time, the achievements of the Society and its further intention to establish an academy for higher learning may not save the Government's decision, which is otherwise an illegal and irregular one. The Court, in this judicial review

proceeding, is concerned with the validity of the decision making process of the Government to allot the land. The requirements to observe statutory rules cannot be given a go bye. A decision, which is contrary scheme, is liable to be struck down.

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58. Regulatory standards prescribed structuring the exercise of discretion by the State and its authorities cannot be violated by the State and the same cannot be countenanced by this Court even in cases where the decision taken is not a mala fide one.

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60. Thus the decision, which is ultra vires the rules or the statute, as the case may be, in a given case, need not be a mala fide one. But, an ultra vires decision cannot be sustained even if it is a bona fide one. It is the duty of this Court to keep the governmental action within the limits of law, and if there is any transgression, it is the plainest duty of the Court to condemn it.

(emphasis supplied)

33. It is pertinent to note that the Supreme Court on multiple occasions has reiterated that executive power cannot be exercised contrary to any statutory provisions.

34. In this regard, reference may be made to the decision in **Sk. Abdul Rashid v. State of J&K**[13], wherein it was held:

> **15. <u>No executive order could be issued in derogation of the statutory rules far less a legislative Act.</u>** The Rules being statutory in nature and having been framed under the Jammu and Kashmir Civil Servants (Removal of Doubts and Declaration of Rights) Ordinance, 1956 have statutory force, the executive order in question was required to be issued in consonance with and not in derogation thereof.
>
> (emphasis supplied)

35. Likewise, in **State of Sikkim v. Dorjee Tshering Bhutia**[14], the Supreme Court has held as follows:

> **15.** The executive power of the State cannot be exercised in the field which is already occupied by the laws made by the legislature. It is settled law that any order, instruction, direction or notification issued in exercise of the executive power of the State which is contrary to any statutory provisions, is without jurisdiction and is a nullity…….

36. As held by the Supreme Court in **Proposed Vaibhav Coop. Housing Society Ltd. v. State of Maharashtra**[15], land is a

[13](2008) 1 SCC 722.
[14](1991) 4 SCC 243.

precious material resource. The same cannot be allotted in violation of the applicable procedure. The relevant paragraph is extracted below:

> **27.** Land is a precious material resource of the community and therefore the least which is required from the State is transparency in its distribution. In our opinion, therefore there has been a complete arbitrariness in the allotment in favour of Mrchs. As far as the present appellant is concerned, its case for allotment of a plot is a matter which is yet to be decided by the authorities, but the allotment of the plot in favour of Mrchs is not proper, as it is violative of the procedure as well as eligibility criteria.

37. All the Respondents, more particularly, the learned Advocate General on behalf of the Government of Telangana contended that the allotment of land was for a public purpose i.e., promotion of institutional arbitration and alternative dispute resolution. We would like to say that, even a bona fide allotment can be set aside, if it is in violation of the applicable procedure. In this regard, reference may be made to the Supreme Court's

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[15](2025) 2 SCC 128

decision in **Humanity v. State of W.B.**[16], wherein the Supreme Court repelled the contention of bona fide allotment of land and held that the ends do not justify the means. The relevant paragraphs are extracted below:

> **42.** However, it has been repeatedly urged, both by the learned counsel for the State and also that of the allottee that both the State Government and the allottee had bona fide intentions of establishing a school. Therefore, the Court in public interest should uphold the allotment and allow the school to be set up and should refrain from interfering in public interest.
>
> **43. <u>This Court is unable to accept the aforesaid contention. It is axiomatic that in order to achieve a bona fide end, the means must also justify the end. This Court is of the opinion that bona fide ends cannot be achieved by questionable means, specially when the State is involved.</u>** This Court has not been able to get any answer from the State why on a request by the allottee to the Hon'ble Minister for Urban Development, the Government granted the allotment with remarkable speed and without considering all aspects of the matter. This Court does not find any legitimacy in the action of the Government, which has to act within the discipline of the constitutional law, explained by this Court in a catena of cases. We are sorry to hold that in making the impugned

[16](2011) 6 SCC 125

> allotment in favour of the allottee, in the facts and circumstances of the case, the State has failed to discharge its constitutional role.
>
> (emphasis supplied)

38. We would also like to point out that matters involving allotment and distribution of state largesse cannot be done free of cost. Governments shall ensure that they are adequately compensated for parting with natural resources vested in them and held by them in public trust. Unless the purpose of allotment is greater and such allotment is to an institution or person who earns no profit, free allotment of government largesse cannot be justified.

39. Reference may be made to the Supreme Court's decision in **J.S. Luthra Academy v. State of J&K**[17], wherein a twin-prong test was laid down to consider the validity of land allotment. Firstly, the courts shall see the purpose justifying the allotment and secondly, it shall be seen whether the government is adequately compensated. If no public or social purpose exists to allot the land or if the government is not adequately compensated, such allotment may be set aside. Relevant paragraphs are extracted below:

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[17](2018) 18 SCC 65

21. Keeping in mind the aforementioned principles formulated by this Court in the aforementioned judgments, we have considered the entire material on record. It must be determined as to whether the allocation made in favour of the Academy fell foul of the above principles. In the instant case, the allocation has evidently been done to a private educational institution by non-revenue maximising means. **Assuming that the Academy is engaged in commercial activities while engaging in its main activity of imparting education to students, two questions remain to be seen : first, whether there was any social or welfare purpose underlying the allocation i.e. if the furtherance of the public good was the ultimate goal of the allocation so as to justify the non-auctioning of the land, and second, if the allocation is bad for lack of adequate compensation**.

(emphasis supplied)

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30. We now turn to the second question, regarding the adequacy of compensation recovered by the State. In this respect, we note the following observations made by Khehar, J. in his concurring opinion in *Natural Resources Allocation, In re* [*Natural Resources Allocation, In re, Special Reference No. 1 of 2012*, (2012) 10 SCC 1] : (SCC p. 144, para 200)

"*200*. I would, therefore, conclude by stating that no part of the natural resource can be dissipated as a matter of largesse, charity, donation or endowment, for private

exploitation. *Each bit of natural resource expended must bring back a reciprocal consideration. The consideration may be in the nature of earning revenue or may be to "best subserve the common good". It may well be the amalgam of the two.* There cannot be a dissipation of material resources free of cost or at a consideration lower than their actual worth. One set of citizens cannot prosper at the cost of another set of citizens, for that would not be fair or reasonable."

(emphasis supplied)

Thus, the impugned transaction must be probed to determine whether it leads to an adequate consideration being received by the State.

32. In this regard it would be pertinent to refer to the observations of this Hon'ble Court in the matter of *Union of India* v. *Jain Sabha* [*Union of India* v. *Jain Sabha*, (1997) 1 SCC 164] wherein the following observations are made : (SCC p. 171, para 11)

"*11*. Before parting with this case, we think it appropriate to observe that it is high time the Government reviews the entire policy relating to allotment of land to schools and other charitable institutions. Where the public property is being given to such institutions practically free, stringent conditions have to be attached with respect to the user of the land and the manner in which schools or other institutions established thereon shall function. The conditions imposed should be consistent with public interest and should always stipulate that in case of

violation of any of those conditions, the land shall be resumed by the Government. Not only such conditions should be stipulated but constant monitoring should be done to ensure that those conditions are being observed in practice. While we cannot say anything about the particular school run by the respondent, it is common knowledge that some of the schools are being run on totally commercial lines. Huge amounts are being charged by way of donations and fees. The question is whether there is any justification for allotting land at throw-away prices to such institutions. **The allotment of land belonging to the people at practically no price is meant for serving the public interest i.e. spread of education or other charitable purposes; it is not meant to enable the allottees to make money or profiteer with the aid of public property.** We are sure that the Government would take necessary measures in this behalf in the light of the observations contained herein."

The aforementioned observations suggest that while in the case of a non profit-oriented educational institution serving the public interest, public property can be allotted to it at a concessional price or for free by imposing stringent conditions for the use of the land, it is questionable whether the same can be done for profit-oriented institutions.

40. In light of the aforesaid discussion, we hold that G.O. Ms. No. 126 dated 26.12.2021 was issued contrary to Rule 3 of the

Rules, 1975.The allotment of subject land free of cost to the IAMC is unsustainable and contrary to the procedure. Likewise, the allotment could not have been done in favour of the IAMC which was not registered as a company under the Companies Act.

41. We would also like to point out that the conduct of the government in allotting the land was unduly hasty. It is noteworthy that possession certificate was issued in favour of the IAMC even before formulating and communicating the terms of allotment. Such hasty decisions do not bode well and often result in exercise of power contrary to the procedure. Discretionary exercise of power shall not only be fair and transparent, but also should be seen to be fair and transparent.

ALLOTMENT OF LAND UNDER THE GOVERNMENT LAND ALLOTMENT POLICY OF 2012:

42. All the Respondents including the IAMC and the Government of Telangana relied upon Section 25 of the Telangana Land Revenue Act, 1317 Fasli to justify the land allotment. In addition to the said provision, the IAMC also relied upon the

Government Land Allotment Policy to contend that the applicable procedure therein was followed.

43. As the allotting authority never relied upon the Land Allotment Policy, 2012 to justify the land allotment, we need not venture into the question whether the allotment of the subject land to the IAMC was in line with the said policy. However, it is worth highlighting that even the said policy does not permit free allotment of land. The policy provides that land can be allotted only on market value as fixed by the Collector or the A.P. Land Management Authority. Free allotment of land is contemplated only in favour of state government departments and below poverty line families. The relevant portion of the said policy is extracted below:

> **b) Rational Norms on Fixing Cost of Land**
>
> (i) While fixing the cost of land to be charged, the general principles laid down in BSO-24, which take into consideration the purpose of allotment and the nature of the organization shall be followed. The provisions of BSO-24 shall apply to all the land allotments along with the conditions stipulated by the alienating agencies/departments.

(ii) The allotment / alienation shall be on market value as recommended by the Collector and the A.P.L.M.A.

(iii) Market value should be ascertained by conducting local enquiry. However the land value shall not be less than the basic value of the land. The following officers of Revenue Department shall be competent for recommending market value within the limits shown below.

Officer competent	**Market value**
Revenue Divisional Officer	Total land value upto Rs.1.00 crore
Collector	Total land value above Rs.1.00 crore

(iv) Compensation to the assignees who relinquish their D-Form patta land and whose land is resumed for public purpose shall be paid exgratia as per rules in force and on par with private patta lands.

(v) As regards the sivaijamedars, who have been cultivating the land for a long period, without D-Form Patta and whose possession is confirmed by entries in 10(1) and adangal accounts may be paid exgratia without solatium as follows:

Occupation between 5-10 years - 50% exgratia equivalent to market value; Occupation 10 years and above - 100% exgratia equivalent to market value.

(vi) The persons who have purchased assigned lands from DKT patta holders, will not be entitled for any exgratia as it is amounts to violation of the conditions of assignment and contravention of the provisions of A.P. Assigned Lands (POT) Act, 1977.

(vii) The Government lands may be given free of cost to State Government Departments for welfare and development purposes. Lands for houses for Below Poverty Line families may also be given free of cost.

(viii) The Department of the Government may formulate and notify, appropriate concessional policies for the promotion of their respective sector, which inter-alia, may include concessional rate of land for sale or lease. It shall be incumbent on the administrative department to ensure compliance with such conditions.

44. Therefore, we hold that G.O. Ms. No. 126 dated 26.12.2021 is also contrary to G.O. Ms. No. 571 dated 14.09.2012 issued by the Revenue (Assignment I) department whereby uniform guidelines were laid down and the 'Government Land Allotment Policy' was framed.

45. Now coming to the validity of G.O. Ms. No. 76 dated 12.11.2021 and G.O. Ms. No. 365 dated 16.07.2022 granting an annual financial aid of Rs. 3 crores to the IAMC; and G.O. Ms. No. 6 dated 17.03.2022 whereby the government altered its dispute resolution policy directing all its departments and public sector

undertakings to refer all its disputes above Rs. 03 crores to the IAMC for arbitration. The impugned G.O.s mentioned herein were justified by the Respondents by relying on the recommendations and findings of the high-level committee report dated 30.07.2017. Therefore, it is apt to discuss the relevant aspects of the said report.

46. The high-level committee was constituted by the Ministry of Law and Justice, Government of India and comprised of retired Supreme Court judges, senior advocates, research fellows from independent legal think tanks, and representatives of the Government of India. The committee, chaired by Justice B.N. Srikrishna, stated that institutional arbitration needs to be strengthened in India to promote alternative dispute resolution. To achieve the goal of promoting arbitration, the committee recommended establishing institutions providing arbitral services similar to that of the ICC Court, SIAC, LCIA, and HKIAC. Highlighting the importance of governmental support in promoting institutional arbitration, the committee recommended that governments should facilitate the construction of integrated infrastructure in major commercial hubs. In addition, the

committee stated that arbitral institutions require initial capital to support itself and the same may be provided by the government. The committee also highlighted that the failure of governments to use institutional arbitration is one of the major reasons for weak institutional arbitration in India. Perusal of the report satisfies us that support of arbitral institutions by the governments is and will be in line with the broad policy objective of creating an arbitration hub in India.

47. According to this Court, the contents of the high-level committee report make out an emphatic case for providing governmental support to promote institutional arbitration in India. The impugned G.O.s providing financial aid and referring government disputes to the IAMC are in line with the broad policy of the government to promote alternative dispute resolution. As stated above, where policy decisions are involved, it is for the concerned government to decide how a particular policy is to be supported and promoted. It is in the wisdom of the government to provide financial assistance to an institution like the IAMC formed to reduce pendency of litigation and to make Hyderabad a

business-friendly city and a commercial destination. As far as the intent of the government to support the IAMC financially is concerned, the same is justified and we find no arbitrariness in the said decision. It is pertinent to note that the governments in the past have financially supported institutions like the International Centre for Alternative Dispute Resolution (hereinafter 'ICADR') to promote arbitration in the country.

48. At this stage, we would like to express our concern regarding the performance of the IAMC and its future. The statistics of the IAMC were placed before this Court. It was stated that as on 29.01.2025 only 15 arbitration cases were conducted by the IAMC. Out of the said 15 cases, 11 arbitration cases were conducted pro-bono. Likewise, only 57 mediation cases were conducted by the IAMC, out of which 17 were conducted pro-bono. The abysmally low caseload raises concerns regarding the future sustenance of the IAMC on its own. The government, as a part of its policy, can provide financial assistance to a new institution like the IAMC. However, such financial assistance to a private arbitral institution cannot be perpetual.

49. In this regard, we would like to point out how ICADR despite receiving continuous financial support from the governments had failed to fulfill its objectives. ICADR was formed by the Ministry of Law and Justice, Government of India, as a registered society in 1995 to promote alternative dispute resolution in the country. As pointed out by the high-level committee report, since its inception ICADR only received 49 arbitration cases. The low caseload, despite financial support, made the high-level committee to recommend the taking over of the ICADR and cancelling the perpetual lease granted in its favour.

50. We hope that the IAMC does not go the ICADR way. However, despite the annual financial assistance of Rs. 3 crores for a continuous period of three (03) years now and the provision of free office space, the IAMC has not been able to sustain itself nor does it show signs of financially sustaining itself in the future. Initial support to the IAMC is justified. However, continuous and perpetual financial assistance to such institutions may not be financially viable and prudent for the State Government. Therefore, we direct the Government of Telangana to review the

performance of the IAMC annually and get its accounts audited by the Principal Accountant General (Audit), Telangana or any other competent officer. We also suggest the Government of Telangana to ensure that any release of funds after the five (05) year period as mentioned in the MoU dated 27.10.2021, is subject to the performance of the IAMC.

51. As far as G.O. Ms. No. 6 dated 17.03.2022 is concerned, the same is a matter of the dispute resolution policy framed by the government. Like any other litigant, it is for the government to decide which forum it wants to approach to get its disputes redressed. The government's decision to refer all its disputes above Rs. 03 crores to the IAMC for arbitration is a matter of policy. We cannot adjudicate the wisdom of the government. However, as public money is involved, we would like to sound a note of caution. We hope that the government examines the costs incurred by it by referring its cases to the IAMC. In case, the government finds that the cost of arbitration through the IAMC is higher and is causing significant burden on the exchequer, it may alter the policy.

52. In light of the aforesaid discussion, the present PILs are partly allowed and we hold as follows:

i. G.O. Ms. No. 126 dated 26.12.2021 is set aside and consequently, the allotment of land bearing Plot No. 27 admeasuring Ac. 3.70 in Sy. No. 83/1, Raidurg village, Sherilingampally mandal, Raga Reddy District in favour of Respondent No. 4 i.e., the IAMC is also set aside;

ii. G.O. Ms. No. 76 dated 12.11.2021 and G.O. Ms. No. 365 dated 16.07.2022 are upheld;

iii. G.O. Ms. No. 6 dated 17.03.2022 is also upheld;

iv. The Government of Telangana (Respondent Nos. 1 to 3) is directed to review the performance of the IAMC annually and get its accounts audited by the Principal Accountant General (Audit), Telangana or any other competent officer; and

v. Any release of funds after the lapse of five (5) years as mentioned in the MoU dated 27.10.2021 shall be subject to the performance of the IAMC/Respondent No.4.

Consequently, pending miscellaneous petitions, if any, in these W.P.(PILs), shall stand closed.

JUSTICE K. LAKSHMAN

JUSTICE K. SUJANA

Date:27.06.2025

Vvr.