Neutral Citation No. - 2024:AHC:111845-DB

AFR

Judgment reserved on 22.05.2024

Judgment delivered on 10.07.2024

Case :- WRIT - C No. - 38069 of 2022

Petitioner :- M/S Shakuntla Educational And Welfare Society
Respondent :- Yamuna Expressway Industrial Development Authority
Counsel for Petitioner :- Ashish Kumar
Counsel for Respondent :- Raj Kishore

Case :- WRIT - C No. - 2674 of 2023

Petitioner :- M/S Maruti Educational Trust
Respondent :- State Of U P And Another
Counsel for Petitioner :- Ashish Kumar
Counsel for Respondent :- Aditya Bhushan Singhal,C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.
Hon'ble Anish Kumar Gupta,J.

(Per Hon. Mahesh Chandra Tripathi,J.)

1. Heard Shri Sunil Gupta & Sri Anurag Khanna, learned Senior Advocates assisted by Shri Ashish Kumar for the petitioner in Writ-C No.38069 of 2022 and Shri H.N. Singh, learned Senior Advocate assisted by Shri Ashish Kumar for the petitioner in connected Writ-C No.2674 of 2023; Shri Manish Goyal, learned Senior Counsel assisted by S/Sri Aditya Bhushan Singhal, Zain Mazbool, Pranav Tandon and Abhay Pratap Singh, learned counsel for Yamuna Expressway Industrial Development Authority[1] and Shri Ambrish Shukla, learned Addl. Chief Standing Counsel along with Shri Fuzail Ahmad Ansari, learned counsel for the State respondents in both the writ petitions.

2. The Writ-C No.38069 of 2022 has been preferred by the petitioner under Art.226 of the Constitution of India, seeking the following reliefs:-

1 YEIDA

"(i) Issue a writ of certiorari calling for the records of the petitioner and quashing demand letter dated 20.09.2022 sent by YEIDA (Annexure 1) to the extent that the said letter pertains to the demand of 64.7% Additional Compensation (inasmuch as other demands mentioned in the letter already stand challenged by way of other legal remedies adopted by the petitioner as stated in para 5 of the present writ petition).

(ii) Issue a writ of declaration that YEIDA is not entitled to recover any amount as 64.7% additional compensation unless it has first fixed the factors and, applying those factors, decided the sum, if any, for collecting such compensation from the petitioner on the basis of the principle of proportionality as enunciated in the Full Bench judgment of High Court dated 25.8.2011 in the Gajraj case and mandated in GO dated 29.8.2014 read with judgment of Supreme Court dated 19.05.2022 in the case of YEIDA v. Shakuntala Educational Welfare Society

AND

In the alternative, issue a writ of mandamus directing YEIDA not to recover from the petitioner any amount other than an amount of 64.7% additional compensation @ Rs.517.60 per sq. mtr. for its plot of 2023500 sq. m."

3. The Writ-C No.2674 of 2023 has been preferred by the petitioner under Art.226 of the Constitution of India, praying for following reliefs:-

"(I) To issue a writ, order or direction in the nature of certiorari calling for the records of the case and quashing the impugned demand notice dated 20.09.2022 (Annexure 1) sent by the Respondent no.2 to the extent that the said notice pertains to the demand of 64.7% Additional Compensation.

(II) To issue a writ, order or direction in the nature of a writ of mandamus directing the respondent no.2 to not to recover from the petitioner any amount by way of interest on the alleged amount of Additional Compensation."

4. Since the controversy involved in both the writ petitions are similar, with the consent of parties, they are being decided by this common judgment and the facts of Writ-C No.38069 of 2022 are being taken as a leading case for deciding the controversy.

BRIEF HISTORY OF THE LITIGATION

5. This much is averred that a vast area of land was acquired by the State of Uttar Pradesh in District Gautam Budh Nagar for public purposes. The said area of land was acquired for the benefit of YEIDA. After the land was acquired, YEIDA invited applications for the

allotment of plots in the area developed by it. In response to the notice inviting applications for such allotment, various allottees including the petitioner applied.

6. The petitioner is a society registered under the Societies Registration Act, 1860 having the aim and object of imparting education. The YEIDA allotted a plot of land viz. Plot No.02, Sector 17A to the petitioner having an area of 50 acres, which is equivalent to 2,02,350 sq. mtr. (@ Rs.1055/- per sq. mtr.) situated on Yamuna Expressway, Gautam Budh Nagar by means of Allotment Letter dated 10.12.2009. Finally in terms of the allotment letter, lease deed was executed in favour of the petitioner-institution on 22.01.2010 for a period of 90 years for institutional purpose namely establishing a private University. The lease deed further provided that in addition to the amount payable by the petitioner, as mentioned in the allotment letter, a further amount i.e. 2.5% of the total premium of the plot was payable as annual lease rent. Consequently, over the said plot, Galgotias University was constructed as per the purpose for which the plot was allotted.

7. The State of U.P. had also made large scale acquisition of lands for the benefit of New Okhla Industrial Development Authority[2] and Greater Noida. Against the said acquisition, a large number of writ petitions were filed before this Court by the farmers on various grounds. The ground of attack in the said proceeding was invocation of urgency clause under Section 17 of the Land Acquisition Act, 1894[3] and the dispensation of enquiry under Section 5A of the L.A. Act. All the said writ petitions were decided by the Full Bench of this Court vide its judgment and order dated 21.10.2011 with leading case viz. **Gajraj v. State of U.P**.[4]. The Full Bench had held that the urgency clause ought not to have been invoked and the farmers were unlawfully denied the benefit of Section 5A of the L.A. Act as there was no plausible reason

2 Noida

3 L.A. Act

4 2011 SCC OnLine All 1711

for invocation of Section 17 of the L.A. Act. However, taking into consideration the subsequent developments that the lands had already been developed and third party rights had accrued, the Full Bench in Gajraj (Supra) considered it appropriate not to disturb the acquisition. In order to balance the equities, the Full Bench directed payment of additional compensation of 64.7% plus some other benefits to the farmers. The aforesaid judgment of Full Bench in Gajraj (Supra) was approved by Hon'ble Supreme Court in **Savitri Devi v. State of Uttar Pradesh**[5]**.**

8. As the farmers, whose lands were acquired for the benefit of Noida and Greater Noida, were paid additional compensation of 64.7%, there was unrest amongst the farmers, whose lands were acquired for YEIDA. They also started agitating and demanding similar treatment. In this connection, more than 600 writ petitions were filed in the High Court and various interim orders were also passed. As a result of which, vast stretches of lands could not be developed. The said factual situation was communicated to the State Government by the then Chief Executive Officer on 10.04.2013 apprising the ground realities and the agitations launched by the affected farmers.

9. On 03.09.2013, the State Government had constituted a High-Level Committee under the Chairmanship of Shri Rajendra Chaudhary, Minister of Prison, State of U.P.[6]. The Chaudhary Committee submitted its recommendations to the State Government recommending for the payment of 64.7% additional amount as "no litigation incentive" to the farmers and for its reimbursement from the allottees in the appropriate proportion. The State Government had accepted the recommendations of the Chaudhary Committee and issued a Government Order dated 29.08.2014[7].

5 (2015) 7 SCC 21

6 Chaudhary Committee

7 G.O. in question

10. The G.O. in question provided that the farmers should be offered 64.7% additional amount on the condition that they withdraw their petitions challenging the acquisition proceedings and undertake not to institute any litigation and create any hindrance in the development work of YEIDA. It was also clarified in the G.O. in question that the Government would not bear the burden of the additional amount. The G.O. in question was placed before the Board of YEIDA in its 51st Board Meeting held on 15.09.2014 and the same was approved in the said meeting on the very same day vide Resolution dated 15.09.2014[8]. For ready reference, the G.O. in question is reproduced as under:-

"Important
No. 1015/77-3-14-6C/12

From,
Anil Kumar
Under Secretary
Government of U.P.

To,
The Chief Executive Officer
Yamuna Industrial Development Authority
Sector- Omega-1, Greater Noida City
Gautambudhnagar.

Industrial Development Section-1
Lucknow, Dt. 29th August, 2014

Subject: Regarding grant of 64.7% additional compensation to the farmers affected by land acquisition in Notified Area of Yamuna Expressway Industrial Development Authority.

Sir,

After due consideration, regarding the implementation of recommendations of Committee constituted under the chairmanship of Sh. Rajendra Chaudhary, Hon'ble Minister, Jail vide Office Memorandum No 4/4/2/2013-C.X.(1) dated 03.09.2013 of Confidential Section-1 for giving recommendations regarding resolving the problems of the villagers of notified areas of the Noida, Greater Noida, Yamuna Expressway Industrial Development Authority i.e. District- Gautambudhnagar, Bulandshahar, Hathras, Aligarh, Mathura and Agra, demands raised by the farmers' representatives/organizations and the problems of farmers

8 Resolution in question

related to acquisition of land of any particular industry or any other Industrial Area, the following decision has been taken by the Government:-

(1) In the common order passed in the different Writ Petitions filed by Noida and Greater Noida Authorities, the Hon'ble High Court by not finding the proceedings conducted under Section 17 of Land Acquisition Act, 1894 to be proper, had directed that the Authority shall pay 64.7% additional compensation to the farmers and return them 10% developed land. Also in the Yamuna Expressway Authority, around 700 Writ Petitions have been filed by the farmers by challenging the different notifications, wherein, stay orders have been passed in the most of the Petitions, the circumstances which were existing in the acquisition made by Noida and Greater Noida Authority, same circumstances are also existed in the most of the cases of acquisition of Yamuna Expressway. The lands acquired by the Authority, have been allotted to the different allottees for different projects, due to which, the third party rights have been created in this acquired land and if order is passed against the Authority in the Petitioners filed against the Acquisition Proceedings, then, many difficulties would arise Therefore, keeping in view the legal expected legal complications, it is required to do the out of court settlement with the affected farmers. At the time of discussion, it was assured by the farmers' representatives that if the Government/ Authority agrees to give 64.7% additional compensation, then, the farmers will withdraw the Petitions filed in the Court,

(2) If, all the farmers/ Petitioners of a village related to the land acquired/ purchased by the Yamuna Expressway Authority, withdraw their Petitions filed in the Hon'ble High Court or in any other Court and if they give written assurance for future that they will not file any claim against the Authority or it's allotee in any Court and will not cause any obstruction in the Development Works, then, like the Greater Noida Authority, the Authority may consider to give amount equivalent to 64.7% additional compensation in the form of No Litigation Incentive/Additional Compensation, which may be concerned allottees and same may also be imposed proportionally in the costing of allotment of land available with the Authority.

(3) These benefits will be allowed also to those farmers, whose' lands have been purchased by the Authority vide Sale Deed on mutual consent basis.

(4) The process of payment of additional compensation, be completed Villagewise in accordance with the Schemes/Priorities of Authority after obtaining physical possession of on the spot and after withdrawal of all the Writ petitions/ Cases of concerned village after doing settlement with the farmers. In view of the financial condition of Authority, if the payment of additional compensation is not possible in lumpsum, then, the consideration could also be made regarding payment in installments or in the form of developed land)

(5) The aforementioned additional benefits be granted to the landowners only in that case when they will handover the physical possession of land to the Authority and withdraw Writ Petition/Case pending in Hon'ble High Court or any other Court and agreement for not causing any obstruction in future in the development works of allottees and for not filing any claim in any Court against the acquisition of land in future. The expenses to be accrued on the additional compensation will be borne by the Authority itself from it's own sources and no financial aid will be granted by the State Government.

(6) If, the Government receives other recommendations of the Committee constituted under the chairmanship of Sh. Rajendra Chaudhary, Hon'ble Minister, Jail vide Office Memorandum No 4/4/2/2013-C.X.(1) dated 03.09.2013 of Confidential Section-1 for giving recommendations regarding resolving the problems of the villagers of notified areas of the Noida, Greater Noida, Yamuna Expressway Industrial Development Authority i.e. District- Gautambudhnagar, Bulandshahar, Hathras, Aligarh, Mathura and Agra, demands raised by the farmers' representatives/organizations and the problems of farmers related to acquisition of land of any particular industry or any other Industrial Area, then, Hon'ble Chief Minister will be authorized for taking decision on the same.

2. In this regard, I have been directed to say that kindly ensure to conduct the aforementioned proceedings regarding grant of 64.70% additional compensation to the affected farmers of notified area of Yamuna Expressway Industrial Development Authority.

Regards,
Sd/-
(Anil Kumar)
Under Secretary

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11. For ready reference, the Resolution in question is also reproduced as under:-

> *"ITEM/NO. 51/04: Recommendations of High Level Committee constituted under the chairmanship of Hon'ble Minister Sh. Rajendra Chaudhary for analysis of demands of farmers of Yamuna Expressway Authority Area and for disposal of their problems and regarding conducting further proceedings in compliance of the Government Order No. 1015/77-3-14-6C/12 dated 29.08.2014 issued by the Government of U.P. in that continuation.*
>
> *On the recommendations submitted by the Committee constituted under the chairmanship of Hon'ble Jail Minister Sh. Rajendra Chaudhary, the Government Order No. 1015/77-3-14-6C/12 dated 29.08.2014 has been issued by the Government, vide which, directions to pay 64.7% extra compensation as no litigation incentive on the compensation paid towards the land acquisition or direct purchase of land within the area of Authority, have been received. In pursuance of the recommendations of committee constituted under the chairmanship of Hon'ble minister, vide office Order dated 13.08.2014, a Committee headed by Deputy Chief Executive Officer was constituted for determining the procedure regarding grant of aforementioned extra compensation and other benefits. The aforesaid Committee after taking into consideration the financial status, cash outflow, available land etc. of the Authority, has submitted it's recommendations. Government Order dated 29.08.2014 Encl.01), Recommendations of High Level Committee constituted under the chairmanship of Hon'ble Minister (Encl-2) and Recommendations of Committee constituted under the chairmanship of Deputy Chief Executive Officer (Encl.-03) are enclosed herewith. On the basis of above, it is proposed to take following decision:-*
>
> *1. By calculating 64.7% extra compensation on the compensation determined in District- Gautambudh Nagar for the year 2007-08 i.e. on Rs.800/- Per Sq. Mtrs., it is proposed to determine the compensation as Rs. 517,60 Per Sq. Mirs. The extra compensation will be payable on the aforesaid rates on all the lands acquired or directly purchased on or after 2007-08. Similarly in other districts of Yamuna Expressway Authority viz. Bulandshahar, Aligarh, Hathras, Mathura and Agras, these rates will be Rs. 517.60, 267.90, 251, 251, 274.30 per sq. mtrs.*

2. On calculating in the aforesaid manner, the following amount of extra compensation shall be paid district wise :-

District	*Extra Compensation (In Crores)*
Gautambudh Nagar and Bulandshahar	*4630.48*
Aligarh	*197.35*
Hathras	*10.88*
Mathura	*213.60*
Agra	*192.74*
Total:	*5245.05*

It is proposed to pay the extra compensation on priority basis in view of the status of liquidity, as may be determined by the Chief Executive Officer, within a period of 2 years.

3. The aforementioned additional benefits will be given to the land only in that condition, when, they will handover the physical possession of land to the Authority, withdraw any Writ Petition/Suit pending in the Hon'ble High Court or any other Court, and produce the agreement of not causing any hindrance in the development works of allottess of Authority and in future, they will not file any case in any Court against the land acquisition.

4. It is proposed to disburse the extra compensation from the level of Authority because if this compensation is disbursed through the Land Acquisition Office, then, 10% more liable on this amount of extra compensation, would accrue towards the additional acquisition expenses, which has to he deposited in the account of State Government. Keeping in view the financial condition of Authority, it is proposed to take this decision that the disbursement of compensation be carried out directly through the Authority level.

5. (a) According to the Authority's Policy, 10% of the total paid compensation, is get deposited through the Land Owners in the head of allotment of 7% abadi land to be given to the ancestral farmers and the development fees of the area of 7% plot is deposited on the half rates of compensation, which amounts to 3.5% of the total amount. Therefore, on adding the extra amount to be distributed at present to the land owners in the amount of

compensation paid earlier, total 13.5% of the total amount, has to be deposited through the Land Owners towards the allotment of 07% abadi land Therefore, it is recommended that after deducting the 13.5% amount as calculated above from the amount of extra compensation to be paid to the ancestral farmers, the balance amount be paid to them.

(b) Under the provisions of Land Management Regulations, it has been decided by the Authority Board to lease back the acquired abadi land of certain farmers. Also in the cases of Lease Bank, the amount of compensation received towards the being leased back to the farmers, has to be refunded in the Account of Authority. Therefore, it is recommended that it would be appropriate to adjust the aforesaid amount with the amount being paid as the extra compensation.

6. It is also proposed that if any farmer wants to take plot in place of extra compensation from the Authority, then, on his written consent, plot could be allotted to him in place of extra compensation in case. Since, the most of acquired/ reserved land, Industrial-use, are available with the Authority, therefore, it is proposed that on the written consent of farmers, the industrial plot of equivalent area be allotted to them in place of additional compensation and the rate of plot proposed to be allotted will be determined by giving concession of 10% from the existing rates. It is pertinent to mention here that if the amount of extra compensation is paid in cash, then, aforesaid amounts shall have to be paid after taking loan from the Financial Institutions, on which, at present 10.20% interest is payable. Therefore, if any farmer takes plot in place of cash compensation from the Authority, then, due to granting him concession of 10%, the Authority would not suffer any financial burden and the status of financial liquidity of authority will also not get disturbed.

Regarding giving developed land in lieu of cash amount, the Committee is of the opinion that the Land Owners could give option of developed land against their entire amount of extra compensation or it's part. In view of the Planning, it would be appropriate that the plots to be given as developed land in lieu of cash amount, be planned in some regular shapes. In view of the above, the Committee is of the opinion that the slabs of the developed plots to be provide i.e. 450, 600, 900, 1200, 1800 sq. mtrs, shall also be published for the information of public at large. The area of plot which would be approximate to actual area to be given to the Land Owner,

the plot of such area would be given to the Land Owner and the cash amount will be paid against the balance area. For example, if total 617 sq. mtrs. area has to be given to any land owner, then, the plot of 600 Sq. Mtrs. will be allotted to him and the cash amount will be paid to him towards 17 Sq. Mtrs.

The industrial plot which is being allotted to the farmers in lieu of the compensation, on that plot, the farmer shall have to operate the industry within a period of 03 years. If, the farmer fails to establish industry on the aforesaid plot, then, with his consent, the farmer will be free to transfer the said land to any Industrialist without establishing /operating industry, within a period of 3 years. In such cases, transfer fees shall be payable by the buyer to the Authority as per Rules. The period prescribed for operating industry on the land transferred to the Buyer, will be calculated from the date of sale deed. The person, to whom the plot will be allotted by the farmer, on him, all the Rules and conditions related to Industrial Allotment of Authority will be applicable.

It would not be appropriate to pay the amount to be paid as extra compensation, in installments because from this, the difficulties would arise in taking the physical possession and the land owners will cause hindrance in the development works on the ground of payment of balance installments.

7. The Authority shall collect the amount to be given as extra compensation, from it's allotees or by enhancing the rates of allotment of acquired land, which is yet to be allotted.

A. From Allottees: It will be recovered in 04 six monthly installments from the Allottes, wherein, the first installment will start after 03 months of issuance of order. For this purpose, it is proposed as under:-

S No.	*Particulars*	*Amount to be imposed (Rupees per sq. mtrs.)*
1.	*M/s. J.P. SI (SDZ, Gautambudh Nagar)*	*517.60*
2.	*Other lands transferred to M/s J.P. Infratech Ltd (Gautambudh Nagar)*	*545.79*

	LFD Facilities etc.	
3.	*Land Transferred to M/s. J.P. Infratech Ltd (Other District)*	*253.50*
4.	*Residential Township Plot/ Group Housing*	*1770*
5.	*Institutional Scheme of Plots from 25 to 250 Acres*	*600*
6.	*Residential Plot Scheme 2009*	*1330*
7.	*Institutional Plot (Offices) 2010-11*	*600*
8.	*Mixed Land Use*	*600*
9.	*Industrial*	*550*

B. From Unsold Land :-

S.No.	*Particulars*	*Rate of Allotment Per Sqm. (before extra compensation)*	*Rate of Allotment Per Sqm. (After Extra Compensation)*	*Increase in rate of Allotment (Rs. Per sqm.)*
1.	*Residential Plot*	*11500*	*14200*	*2700*
2.	*Group Housing*	*1400*	*14750*	*750*
3.	*Industrial*	*5500*	*6100 (Maximum)*	*600*
4.	*Institutional*	*6500*	*7200 (Max.)*	*700*
5.	*Commercial*	*23000*	*28400*	*5400*
6.	*Recreational Green*	*4500*	*5100 (max.)*	*600*
7.	*Transport*	*4000*	*4000*	*-*

C. For compensating this amount, the Authority shall have to take loan from the Financial Institutions till 2022-23 in the following manner :-

Year	*Necessary Loan (In Crores)*	*Repayment of Loan (In Crores)*
01.07.2014 to 31.03.2015	*1425*	*1465.41*
2015-16	*1450*	*1875.11*
2016-17	*-*	*1684.78*
2017-18	*650*	*1583.28*
2018-19	*1850*	*1082.27*
2019-20	*300*	*989.61*
2020-21	*1700*	*1133.52*
2021-22	*2100*	*1394.30*
2022-23	*-*	*4651.66*

8. Due to the pendency of Writ petitions and due to passing stay orders therein, the development work being carried out by the Allottees is stopped. Moreover, the development works of Authority are also stopped. In view of this, the Allottees have raised demand time to time to make the disputed period as zero period.

In this regard, it is proposed that :-

(1) For completion of pending Projects, additional period of 2 years will be granted to each allottee without any penalty apart from the period prescribed under relevant rules and Bylaws. In the matters of personal residential plot additional period of 2 years from the date of Lease Deed and in other cases, additional period of 2 years will be granted for completing the project.

(2) The Penal Interest to be imposed on the defaulted amount of allottees (2% in housing scheme and 03% in others) will not be imposed.

(3) If the allotee is agreed to pay 50% of defaulted amount in lump sum within a period of 60 days, then, the defaulted amount, will be reassessed with the balance installments.

(4) The late fees to be imposed on delay in the execution of Lease Deed, will not be imposed.

(5) This option will also be available to the allottees of this scheme that such allottees who are not agreed to pay the burden imposed on the allottee as a result of extra compensation to be given to the farmers, then, they by surrendering the allotted plot in favour of the Authority till 30.04.2010, may get the refund of their deposited amount (other than Penal Interest) alongwith interest @ 6% per annum. If, the allottee has deposited lump sum lease rent, then, apart from the Lease Rent from the date of Lease Deed till the date of Surrender, they may get the refund of balance amount of lease rent.

Accordingly, the aforesaid proposal is being produced before the Board of Directors for consideration.

Sd/- illegible

Sd/- illegible

Sd/- illegible

15.9.2014

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12. Pursuant to the G.O. in question as well as Resolution in question, YEIDA issued various notices to the allottees including the petitioner for payment of additional compensation. Consequently, demand notice dated 15.12.2014[9] was sent to the petitioners for payment of additional compensation expressly stipulating with three terms:-

"a) Rate of additional compensation @ 600/sqm;

b) Four installments for payment of the entire additional compensation;

c) Levy of interest in case of failure to deposit additional compensation by the specified dates."

9 First demand notice

13. In terms of the G.O. in question as well as the resolution in question, the YEIDA raised first demand notice on 15.12.2014, which for ready reference, is reproduced as under:-

"YAMUNA EXPRESSWAY INDUSTRIAL DEVELOPMENT AUTHORITY

First Floor, Commercial Complex, P-02, Sector-Omega-1

Greater Noida City, Gautambudh Nagar -201308(U.P.)

Letter No. Sansthagat/2014/175

Dated: 15.12.2014

Estate Department

Allotment No. : MSEZ-0006

Plot No./Sector : 02/17A

Area : 202350.00 Sqm

To,

M/s Shakuntala Educational & Welfare Society

4405/6, Prakash Apartment, Part-II

5, Ansari Road

Darya Ganj, New Delhi-110002.

Sir/Madam,

Vide Letter No. 1015/77-3-14-6C dated 29.08.2014 of the Government, it has been directed that an amount equal to 64.7% additional compensation be given to the farmers affected by land-acquisition in the form of No Litigation Incentive/ Additional Compensation, which shall be compensated from the concerned allottees in proportionate manner.

In pursuance of the directions received from the Government, proposal was passed in the 51st Board Meeting of Authority, wherein, it has been decided to realize Rs.600/- sq. mtrs. as additional dues other than the rate of allotment for compensating the burden of extra compensation on the plots allotted under the Mini SEZ (25 to 250 acres) Scheme.

On the basis of decision taken in the 51st Board Meeting of Authority, the following additional compensation will be payable as under:--

Total Area Allotted	*: 2023500.00 Sqm*
Rate	*: Rs.600/- Per Sqm*
Total Amount	*: Rs.12,14,10,000/-*
Date of issue Letter	*: 15.12.2014*

Depositor Bank Name :Bank of Baroda, First Floor, Commercial Complex, Block-P-02, Sector- Omega-1, Greater Noida, District- G.B. Nagar.

Particular	*Installment*	*Due Date*
Extra Compensation Installment- 01	*3,03,52,500*	*16.03.2015*
Extra Compensation Installment- 02	*3,03,52,500*	*14.09.2015*
Extra Compensation Installment- 03	*3,03,52,500*	*15.03.2016*
Extra Compensation Installment- 04	*3,03,52,500*	*13.09.2016*

Therefore, you are requested that kindly ensure to deposit the due payment of aforementioned extra compensation on the prescribed date in the prescribed Bank, otherwise, in case of default the penal interest will be imposed.

Regards,
Sd/-
(Rajesh Kumar Shukla)
OSD

Copy to:-
Finance Controller for perusal.

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(Emphasis supplied)

14. The Government Order in question, Board Resolution in question as well as first demand of notice were challenged by various allottees including the petitioner on similar and identical facts in various writ petitions on following grounds:-

> *"(a) The decision of the High Court in the Gajraj (Supra) is not applicable in respect of land acquired for YEIDA.*
>
> *(b) the burden of the additional compensation cannot be shifted upon the allottees.*

(c) YEIDA cannot realize any amount over and above that which has been mentioned in the allotment letter or the lease deed, which is a binding contract."

15. On similar grounds the petitioner filed Writ Petition No.28698 of 2018 (Shakuntla Educational and Welfare Society v. State of U.P. & Ors.) before this Court mainly with following prayer:-

"1. To issue a writ, order or direction in the nature of certiorari calling for records of the case and quashing the impugned demand notice dated 15.12.2014 issued by the respondent no.3 for payment of Rs.12,14,10,000/- and 64.7% additional compensation in respect of Plot No.2 Section 17A Yamuna Expressway, allotted under Mini S.E.Z. Scheme (25-250 acres) having allotment no.MSEZ-0006."

16. In the said writ petition, initially an interim order was accorded on 29.08.2018. Eventually, the Division Bench of this Court clubbed all such matters and allowed the same vide its judgment and order dated 28.05.2020 in **Shakuntla Educational and Welfare Society v. State of U.P. & Ors.**[10]. The operative portion of the said judgment is reproduced as under:-

"……..114. This apart as the issues raised in this petition are all of legal nature and are not dependent upon any disputed facts, we see no good reason to relegate the petitioner to alternate remedy instead of answering the questions on the judicial side. In the end, we conclude as under:-

(i) The decision in the case of Gajraj as approved by Savitri Devi is not a judgement in rem which could have been applied to proceedings for acquiring the land under different notifications or for Y.E.I.D.A.;

(ii) the issuance of the Government Order dated 29.08.2014 and its acceptance by Y.E.I.D.A. is patently illegal. It is violative of the provisions of the L.A. Act and is otherwise without jurisdiction as no such Government Order is liable to be issued in equity by the Government and that the policy behind it is unfair, unreasonable and arbitrary which is in violation of the provisions of the T.P. Act; and

(iii) the aforesaid Government Order dated 29.08.2014 as such is held to be invalid and liable to be ignored. Consequentially, all actions and demands of the Y.E.I.D.A. based upon it are held to be illegal.

115. In view of above facts and circumstances, the impugned Government Order dated 29.08.2014 is declared to be illegal and without jurisdiction and consequently all demands raised on its basis are quashed.

116. The Writ Petitions are allowed with no orders as to costs."

10 Writ Petition No.28698 of 2018 along with connected matters reported in 2020 SCC OnLine All 676.

17. The aforesaid judgment and order passed by the Division Bench of this Court along with similar other judgments were challenged by YEIDA before Hon'ble Supreme Court by way of preferring Civil Appeals. All such appeals were allowed by Hon'ble Supreme Court on 19.05.2022 in Civil Appeal Nos.4178-4197 of 2022 **(Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors.)** and other connected appeals[11]. The relevant portion of the said judgment is quoted as under:-

> *"……60. It is trite law that an interference with the policy decision would not be warranted unless it is found that the policy decision is palpably arbitrary, mala fide, irrational or violative of the statutory provisions. We are therefore of the considered view that the High Court was also not right in interfering with the policy decision of the State Government, which is in the larger public interest.*
>
> *61. It will also be apposite to refer to the following observations of this Court in the case of APM Terminals B.V. vs. Union of India and another (2011) 6 SCC 756:*
>
> *"67. It has been the consistent view of this Court that a change in policy by the Government can have an overriding effect over private treaties between the Government and a private party, if the same was in the general public interest and provided such change in policy was guided by reason. Several decisions have been cited by the parties in this regard in the context of preventing private monopolisation of port activities to an extent where such private player would assume a dominant position which would enable them to control not only the berthing of ships but the tariff for use of the port facilities."*
>
> *62. It could thus be seen that it is more than settled that a change in policy by the Government can have an overriding effect over private treaties between the Government and a private party, if the same was in the general public interest. The additional requirement is that such change in policy is required to be guided by reason.*
>
> *63. Insofar as the reliance placed by the respondents on the judgment of this Court in the case of ITC Limited (supra) is concerned, in our considered view, the said judgment would not be of any assistance to the case of*

11 2022 SCC OnLine SC 655

the respondents. This Court in the said case in paragraph 107.1 has clearly observed that in the case of conflict between public interest and personal interest, public interest should prevail.

64. A number of judgments of this Court have been cited at the Bar by the respondents in support of the proposition that in view of concluded contracts, it was not permissible for the appellants to unilaterally increase the premium by framing a policy.

65. We have hereinabove elaborately discussed that when a policy is changed by the State, which is in the general public interest, such policy would prevail over the individual rights/interests. In that view of the matter, we do not find it necessary to refer to the said judgments. The policy of the State Government as reflected in the said G.O. was not only in the larger public interest but also in the interest of the respondents.

66. We further find that the respondents have indulged into the conduct of approbate and reprobate. They have changed their stance as per their convenience. When their projects were stalled on account of the farmers' agitation, it is they who approached the State Authorities for finding out a solution. When the State Government responded to their representations and came up with a policy which was equitable and in the interest of both, the farmers and the allottees and when the said policy paved the way for development, when called upon to pay the additional compensation, the respondentsallottees somersaulted and challenged the very same policy before the High Court, which benefitted them. We have already hereinabove made reference to the various communications made by the allottees of the land for intervention of the State Government.

67. Insofar as the individual plot owners are concerned, it will be worthwhile to mention that the residential plot owners in Sectors 18 and 20 of Yamuna Expressway city have formed an association, viz., Yamuna Expressway ResidentialPlotOwners Welfare Association (hereinafter referred to as "the YERWA"). The communication addressed by the president of the YERWA to the CEO of YEIDA would reveal that 98.5% of the allottees/owners have voted in favour of paying the additional premium demanded by the Authority. The only request made by the YERWA is with regard to making a provision for paying additional premium in installments.

68. It can thus be seen that even insofar as the individual residential plot owners are concerned, more than 98% of the plot owners do not have any objection to the payment of the additional compensation.

69. With respect to the contention of the respondent No.19 Supertech with regard to initiation of CIRP, we are not concerned with the said issue in the present proceedings. The law will take its own course.

70. In conclusion, we are of the considered view that the policy decision of the State Government as reflected in the said G.O. dated 29th August, 2014 and the Resolution of the Board of YEIDA dated 15th September, 2014 were in the larger public interest, taking care of the concerns of the allottees as well as the farmers. As already discussed hereinabove, had the said decision not been taken, there was a hanging sword of the acquisition being declared unlawful. The development of the entire project was stalled on account of farmers' agitation. Before taking the policy decision, the State Government, through the Chaudhary Committee, had done a wide range of deliberations with all the stakeholders including the allottees, farmers and YEIDA. The policy decision was taken after taking into consideration all relevant factors and was guided by reasons. In any case, it is a settled position of law that in case of a conflict between public interest and personal interest, public interest will outweigh the personal interest. The High Court was therefore not justified in holding that the policy decision of the State was unfair, unreasonable and arbitrary. We are of the considered view that the High Court has erred in allowing the writ petitions. The present appeals, therefore, deserve to be allowed.

71. In the result, we pass the following order:

(i) The appeals are allowed;

(ii) The impugned judgment and order dated 28 th May, 2020, passed by the Allahabad High Court in Writ Petition No. 28968 of 2018 and companion matters is quashed and set aside;

(iii) The writ petitions filed by the respondents covered by the impugned judgment and order dated 28th May, 2020 passed by the Allahabad High Court are dismissed;

72. Applications for Intervention are allowed. Pending applications, including the applications for directions, shall stand disposed of in the above terms. There shall be no order as to costs."

18. Once Hon'ble Supreme Court had upheld the Government Order in question as well as Board Resolution in question, afresh a demand notice was issued by YEIDA to the petitioner on 20.09.2022[12] (impugned in this writ petition) for payment of additional compensation and accrued interest due to their default as admittedly no payment was made in response to the first demand notice or subsequent demand notices. The consequential demand notice is subject matter of challenge in the present writ petition. For ready reference, the consequential demand notice is reproduced as under:-

"नोटिस

सेवा में

M/S Shakuntla Educational Welfare Society

1405/6, Prakash Apertinem, Part-11,

5, Ansari Road Daryaganj

New Delhi-110002

विषय - भूखण्ड संख्या-02, सैक्टर-17ए के सापेक्ष देय धनराशि के सम्बन्ध में ।

महोदय/ महोदया,

कृपया अवगत कराना है कि इस कार्यालय से पूर्व में प्रेषित पत्र दिनांक 01.08.2022 के माध्यम से भू-उपयोग के आधार पर अंतर धनराशि (रू०.1041 प्रति वर्ग मीटर) के सापेक्ष देय धनराशि का भुगतान किये जाने हेतु सूचित किया गया जिसके क्रम में वर्तमान तक उपलब्ध अभिलेखानुसार कोई धनराशि प्राप्त नहीं है।

अवगत कराना है कि No Litigation Incentive (64.7% अतरिक्त प्रतिकर) वितरण के संबंध में शासन द्वारा जारी शासनादेश संख्या 1015/77-3-14-6सी /12 दिनांक 29.08.2014 के संबंध में योजित रिट याचिक संख्या 28968/2018) शकुन्तला एजुकेशन एण्ड वेलफेयर सोसायटी के साथ अन्य 19 रिट याचिकाओं में उक्त शासनादेश को दिनांक 28.05.2020 को निरस्त कर दिया गया था ।

मा० उच्चतम न्यायालय के समक्ष प्राधिकरण द्वारा योजित विशेष अनुज्ञा याचिका (एस.एल. पी.) सं०. 10015-10034/2020 पर मा० उच्चतम न्यायालय द्वारा दिनांक 19.05.2022 को आदेश पारित करते हुए मा. उच्च

12 Consequential demand notice

न्यायालय के उक्त आदेश दिनांक 28.06.2020 को निरस्त कर दिया गया है। अतः मा० उच्चतम न्यायालय द्वारा दिये गये आदेश के अनुसार 64.7 प्रतिशत अतिरिक्त प्रतिकर की धनराशि आवंटी द्वारा दी जानी है।

आप के पक्ष में आवंटित भूखण्ड के सापेक्ष भू-उपयोग के आधार पर अंतर धनराशि (रू०. 1041 प्रति वर्ग मीटर) के अतिरिक्त अन्य मदों में अतिदेय धनराशि ब्याज सहित दिनांक 15.10.2022 तक निम्नानुसार है:-

धनराशि करोड़ में

प्रीमियम तथा ई.डी.सी	32.05
कृषको को दिये जाने वाली 64.7 प्रतिशत अतिरिक्त प्रतिकर की धनराशि	33.04

उपरोक्त के दृष्टिगत आपसे अनुरोध है कि अतिदेय धनराशि दिनांक 15.10.2022 तक जमा कर जमा चालान की प्रति प्राधिकरण कार्यालय में प्रस्तुत करना सुनिश्चित करें। यह नोटिस प्राधिकरण के अन्य मदों में अतिदेय धनराशि की मॉग और वसूली के अधिकार और बिना किसी पूर्वाग्रह के है।

उक्त नोटिस का अनुपालन न होने की स्थिति में नियमानुसार वसूली अथवा पट्टा प्रलेख निरस्त किये जाने की आवश्यक कार्यवाही की जायेगी।

भवदीय

(सिद्धार्थ गौतम)

सहायक महाप्रबन्धक (संस्थागत)"

19. On the matter being taken up on 5.01.2023, following interim order[13] was passed by this Court, the relevant portion of which, for ready reference is reproduced as under:-

"1. Heard Sri Sunil Gupta and Sri Anurag Khanna learned Senior Counsels assisted by Sri Ashish Kumar learned counsel for the petitioner and Sri Manish Goyal learned Senior Counsel assisted by Sri Aditya Bhushan Singhal learned counsel for the Yamuna Expressway Industrial Development Authority (in short YEIDA).

2. This writ petition is directed against the letter of demand dated 20.09.2022 issued by YEIDA, to the extent that it pertains to the

13 Interim order in question

demand of 64.7% additional compensation to be given to the farmers which is to the tune of Rs.33.4 crores.

Summary of grounds of challenge:-

3. The challenge is pressed on four grounds:-

(i) The first attack is on the question of proportionality as per the recommendation of the Chaudhary Committee, Government order dated 29.08.2014 (as affirmed by the Supreme Court in its judgement and order dated dated 19.05.2022) and on the principle of parity with the judgement of the Full Bench of this Court in Gajraj and others Vs. State of U.P. and others1.

(ii) The quantum of additional compensation of 64.7% being excess to the amount of Rs.517.60 per square meters actually paid by the acquiring authority to the farmers.

(iii) On the levy of interest that it is being charged without backing of any law, statute or contract on the amount of additional compensation worked out by YEIDA.

(iv) Last ground is that the petitioner has not indulged in unjust enrichment and since it has not collected any amount towards the additional compensation from its end users, it cannot be saddled with the liability of interest on the additional compensation amount on any ground or otherwise for the period of pendency of litigation in Court.

Brief facts:-

4. The petitioner is a society registered under the Societies Registration Act' 1860, having the object of imparting education. On a piece of land which was allotted by YEIDA to the petitioner, they had established a University known as "Galgotia University". The allotment process was completed in the year 2009-10 and the University was started w.e.f. 01.07.2011 with the completion of admission and commencement of classes. The impugned demanded vide letter dated 20.09.2022 to the extent of 64.7% additional compensation, is a renewed demand by YEIDA which was firstly made vide notice dated 15.12.2014. The demand letter appended as Annexure No.'1' to the writ petition records that with respect to the demand notice dated 15.12.2014, pursuant to the Government order dated 29.08.2014 of 64.7% additional compensation as 'No Litigation Incentive', the petitioner herein namely Shakuntala Educational and Welfare Society filed a writ petition No.28968 of 2018 which was allowed vide judgement and order dated 28.05.2020 passed by this Court quashing the aforesaid government order. In the Special Leave Petition (Civil) No.10015-10034 of 2020 (Civil Appeal No.4178-4197 of 2022), the Apex Court vide judgement and order dated 19.05.2022 set aside the judgment of the Writ Court and all the writ petitions including the writ petition filed by the petitioner herein had been dismissed. The notice of demand under challenge, thus, states that the petitioner herein is liable to pay 64.7% additional compensation pursuant to the order of the Apex Court.

5. This is, thus, the second round of litigation by the petitioner to challenge the demand of 64.7% additional compensation.

Preliminary Objection:-

6. Sri Manish Goyal learned Senior Counsel appearing for YEIDA raised a preliminary objection with regard to the maintainability of

the writ petition on the first two grounds noted above, i.e. on the question of proportionality and quantum of additional compensation. While placing the relief clause of the previous writ petition filed by the petitioner therein, it was urged by the learned Senior Counsel appearing for YEIDA that the relief in the previous writ petition was not only confined to the challenge to the government order dated 29.08.2014, but also to the decision of the Board of YEIDA at item No.51/4 of 51st meeting of the Board dated 15.09.2014 whereby computation of additional compensation was made for different categories of allottees as also the consequent demand notice dated 15.12.2014 issued by YEIDA demanding Rs.12 crores and odd towards 64.7% additional compensation. It was urged that with the dismissal of the previous writ petition by the judgement and order dated 19.05.2022 passed by the Apex Court, the issue in relation to the computation of additional compensation or quantum fixed by the Board cannot be re-agitated on any ground whatsoever, including the grounds of proportionality and the factors to be worked out to compute the amount of 64.7% additional compensation.

7. As regards the demand of interest, it was submitted that as the petitioner has failed to meet the demand raised on 15.12.2014 within the time given in the said demand notice, with the dismissal of the writ petition filed by the petitioner, the demand would go back to the date when it was first raised and as per the original demand notice dated 15.12.2014, the petitioner herein is liable to pay interest as intimated therein.

……..

……..

39. The 'proportionality' observation, i.e. "collection of additional compensation proportionally from the concerned allottees" as propounded in the Government Order dated 29.08.2014 is to be understood in terms of the resolution of the 51th Board meeting of YEIDA. A perusal of the relevant clauses of the Board's resolution, extracted above, makes it evident that 64.7% additional compensation for District Gautam Buddh Nagar for the year 2007-08 on the compensation determined by YEIDA to the tune of Rs.800/- per square meter, was worked out to be Rs. 517.60 square meter. The district-wise liability of additional compensation for District Gautam Buddh Nagar and Bulandshahr was worked to Rs. 4630.48 crores and the distribution of said amount amongst the allottees was made in terms of the table given in 'para 7' of the resolution at item No.51/04 of the 51st Board meeting of YEIDA, which clearly provides for apportionment of extra/additional compensation by applying different rates per square meters to be imposed upon different categories of allottees.

40. It may be seen that for residential township/group housing the rate is Rs.1770/- per square meter; for residential plot scheme 2009 the rate is Rs1330/- per square meter; for institutional scheme of plot from 25 to 200 acres (the category to which the petitioner belongs) the rate is Rs.600/- per square meters whereas for industrial plot (offices) 2010-11 and Mixed land use the rate is Rs600/- per square meters; for industrial purposes the amount to be imposed upon the allottees is Rs.550/- square meter.

41. In our considered opinion, the 'proportionality principle' propounded in the recommendation of the Chaudhary Committee

and approved by the State Government in the order dated 29.08.2014, i.e. to consider the amount of 64.7% additional compensation to be paid to the farmers in the form of 'No Litigation Incentive', "which may be collected proportionally from the applied allottee and which may be imposed proportionally in the costing of allotment of land available with the authority (i.e. for existing allottees and future allottees)" has been duly applied by YEIDA (development authority) while distributing its total liability of additional compensation amongst different categories of allottees proportionally. ***The decision of Board of YEIDA in its 51st meeting taken in compliance of the Government Order dated 29.08.2014 has been upheld by the Apex Court while dismissing the previous writ petition filed by the petitioner herein vide judgement and order dated 19.05.2022 in Yamuna Expressway Industrial Development Authority Etc Vs. Shakuntala Educational and Welfare Society & others19.***

42. ***The issue as to the liability of additional compensation fastened upon different categories of allottees of the lands*** *by YEIDA has been upheld by the Apex Court in the above noted decision which is binding between the parties herein. The quantum of additional compensation determined by YEIDA in its Board meeting dated 15.09.2014 @ of Rs.600/- per square meter having been upheld by the Apex Court in the above noted decision is not open for consideration before us in this second round of litigation.* ***Challenge to the demand notice dated 20.09.2022 is nothing but reiteration of the demand raised by the first notice dated 15.12.2014 upheld by the Apex Court.*** *Any observations of the learned Single Judge of this Court in Gaursons (supra) on the issue of 'proportionality' as observed in Gajraj (supra) in no way is attracted in the present case nor the word "proportionally" used in the recommendation of the Chaudhary Committee and the Government Order dated 29.08.2014 can be interpreted in the manner as has been submitted by the learned Senior Counsel for the petitioner herein.*

43. The emphasis laid on the decision of the learned Single Judge in Gaursons (supra) to draw analogy for interpretation of word "proportionally" occurring in the Government Order dated 29.08.2014 is wholly misconceived. We are convinced to uphold the preliminary objection raised by the learned Senior Counsel for YEIDA that the challenge to the reiterated demand notice dated 20.09.2022 after dismissal of the previous Writ Petition No.28968 of 2018 by the Apex Court on the issue of determination of the liability of the allottee towards additional compensation, i.e. quantum as determined in the 51st Board meeting of YEIDA dated 15.09.2014 is no longer res integra and is hit by the principles of res judicata under Section 11 of the Code of Civil Procedure. As the proportionality principle raised by the learned Senior Counsel for the petitioner based on the decision of the learned Single Judge in Gaursons (supra), has no applicability in the facts and circumstances of the case, we are not required to deal with the detail arguments raised on the principle of res judicata, i.e. the interpretation, scope and applicability of Section 11 and Order 2 Rule 2 CPC. The plea that the matter of proportionality is an independent ground and the question of ***quantum of liability remains open for consideration in this second round of litigation between the parties, is liable to be turned down.***

44. The first two grounds of challenge, as noted above (in the beginning of this judgement), to the demand notice dated 20.09.2022 requiring the petitioner to deposit Rs.33.04 crores towards the additional compensation to be paid to the farmers are, thus, turn down.

45. However, the question remains of the liability of interest on the initial demand of Rs.12,14,10,000/- raised by the first demand notice dated 15.12.2014. In this regard, it was argued by the learned Senior Counsel for the petitioner that there is no legal backing to the demand of penal interest as indicated in the first demand notice dated 15.12.2014. Moreover, the petitioner was not obliged to deposit the demanded money in view of the fact that the challenge raised by it was upheld by this Court. The amount of Rs.33.04 crores which include interest as is evident from the language of the notice dated 20.09.2022 is exorbitant and has no rationale basis or backing of legal or statutory provisions. It was argued that there is no break up of the interest liability in the demand notice and hence rationale for the same cannot be examined by this Court without calling for a reply from YEIDA.

46. It was also argued that the petitioner being an institutional allottee has not been benefited, in any manner, on account of non-deposit of the additional compensation as its end users are students to whom the liability could not be passed on. The contention is that the case of the petitioner is to be distinguished from that of the colonizer/builders who have collected the additional compensation paid by them from their allottees/home buyers. The demand of any sum of interest or otherwise for the period of pendency of litigation in Court is inequitable, unfair, unreasonable and violative of Article 14 of the Constitution of India.

47. On the above issue, i.e. to the extent of the dispute pertaining to the demand of interest over the additional amount of compensation computed at the rate of Rs.600/- per square meter for the total land area of 202350.00 square meter, we are of the opinion that the matter is required to be considered after exchange of pleadings between the parties.

48. We, therefore, call upon the respondent-YEIDA to file a counter affidavit within a period of three weeks from today confined to the challenge to the levy of interest raised herein. Two weeks , thereafter is granted to the petitioner to file rejoinder.

49. Put up on 14.02.2023 in the additional cause list.

50. In view of the above discussion, the demand of Rs.33.04 crores towards 64.7% additional compensation as raised in the demand notice dated 20.09.2022 is partially stayed, i.e. subject to the condition that an amount of Rs.15 crores shall be deposited by the petitioner with the development authority namely YEIDA within a period of four weeks from today.

51. Any default on the part of the petitioner in complying with the above condition would give rise to a cause of action to YEIDA to press the entire demand raised in the notice dated 20.09.2022 with respect to 64.7% additional compensation to be paid to the farmers."

(Emphasis supplied)

20. As per the record, this much is reflected that the aforesaid condition stipulated in the interim order in question qua deposit of Rs.15 crores by the petitioner with the YEIDA has been fulfilled by the petitioner. The interim order in question has also attained finality as there was no challenge to the same as yet.

ARGUMENTS ON BEHALF OF THE PETITIONER

21. Shri Sunil Gupta, learned Senior Counsel appearing for the petitioner submitted that the Division Bench while passing the interim order in question has turned down the grounds of challenge to the demand notice dated 20.09.2022 i.e. the consequential demand notice, requiring the petitioner to deposit Rs.33.04 crores towards the additional compensation to be paid to the farmers and in compliance of the same the requisite amount has already been deposited by the petitioner. The interim order in question has also not been challenged before the Supreme Court and as such he is not pressing the said ground. At present he has confined his prayer only to challenge the levy of interest.

22. Shri Gupta, learned Senior Counsel submitted that it is well settled that interest on delayed payment of a debt is a matter of substantive law and can be claimed or awarded only if it is provided for in any of the following ways:-

(i) a statutory provision in an enactment

(ii) express terms of a contract

(iii) mercantile or trade usage or

(iv) implied agreement between the parties.

23. He vehemently submitted that in the present case, so far as the petitioner is concerned, interest on the item of ‘additional compensation, was never provided for in any of the above four ways. There was clearly no enactment or trade usage for the same. The G.O. in question, which was issued for additional compensation is purely an administrative decision and at no point of time the petitioner was part of

deliberations before the Chaudhary Committee. The terms in the contract of the petitioner with YEIDA in 2009-10 viz. the Allotment Letter and Lease Deed comprised of only three items of consideration viz. Land Premium, External Development Charges (EDC) and Lease Rent. The item of additional compensation did not even exist at that time.

24. He next submitted that the 'liability' to pay the said sum also never got imposed on the petitioner by way of implied agreement as might have been the case with some other allottees viz. the allottees, who had given undertakings to YEIDA to pay additional compensation in lieu of YEIDA removing for them the obstructions caused by the farmers. Moreover, the petitioner had already completed its project and established the University in the year 2011 and it did not face any farmers obstruction, gave no such undertaking and entered no such implied agreement. He submitted that some written undertaking agreeing to pay additional compensation was given by various companies, if the hindrances caused by the farmers are removed by the authorities and that such allottees were bound by their undertakings and cannot 'somersault' or 'approbate and reprobate'. While referring to the judgment of Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra), he submitted that in the said judgment, the Supreme Court has named some of the companies/ incumbents, who had given such an undertaking but the name of the petitioner was not there in the said judgment. Therefore, there was no agreement or implied agreement whatsoever given by the petitioner so as to pay additional compensation and/or interest.

25. Learned Senior Counsel appearing for the petitioner has heavily relied upon the Interest Act, 1978[14], which is a general and comprehensive substantive law on the subject of interest and applies only where, at least, an implied agreement to pay interest exists. In the petitioner's case, there being no agreement for additional compensation,

14 Interest Act

there was obviously no implied agreement even for interest and as such the demand of interest in demand notices dated 15.12.2014 and 20.09.2022 is ex facie without jurisdiction, illegal and impermissible in law. In support of his submissions, he has placed reliance on Section 3 read with Section 2 (c) of the Interest Act. He has submitted that in the present case, there is no 'debt' or 'liability for an ascertained sum', which is a precondition for any interest to be allowed under Section 3 read with Section 2 (c) of the Interest Act, hence the demand notices for interest are wholly unsustainable.

26. To elaborate, learned Senior Counsel submitted that interest under Section 3 of the Interest Act can be claimed only in respect of a 'debt'. 'Debt' has been defined in Section 2 (c) to be a 'liability for an ascertained sum' and has been held by the courts to mean a fixed and determined sum agreed and known to both the parties i.e. known not only to the party claiming the sum but also known from before to the party said to be liable so that it constitutes an obligation of the latter party to pay the sum. Such pre-existing knowledge of both the parties can be either owing to an agreement or adjudication of a dispute. An ascertained or known 'debt' is a jurisdictional pre-condition for the grant of interest under Section 3 of Interest Act. If there is no such 'debt', no interest can be awarded. A demand of any sum unsupported by any statute, contract, usage or implied agreement and made unilaterally by any person would not be covered by the word 'liability' in Section 2 (c) read with Section 3 of interest Act for award of interest. It is claimed that in the instant case the unilateral levy and demand of additional compensation contained in Government Order in question, Board Resolution in question and the demand notices was never a liability upon the petitioner.

27. Reliance has also been placed on Section 2 (g) of the Recovery of Debts and Bankruptcy Act, 1993, which provides, 'debt' means any liability (inclusive of interest) which is claimed as due from any person by a bank or a financial institution…..". In the interest Act, the word

'debt' has been defined under Section 2 (c) of that Act by using specific terms of restricted character. It means 'any liability for an ascertained sum of money and includes a debt payable in any kind but does not include a 'judgment debt'. In this definition, the 'ascertained sum' obviously means a sum which has been determined under any methods of the adjudicative process. Ref. **Eureka Forbes Ltd. v. Allahabad Bank**[15]. Reliance has also been placed on the judgments in **Jyothi Ltd. v. Boving Fouress[16], Viva Highways v. MP RDC[17]** and **Union of India v. A.L. Rallia Ram[18].** Heavy reliance has also been placed on the judgment in **Central Bank of India v. Ravindra & Ors.[19].** For ready reference, paras 30, 38 and 39 are reproduced as under:-

> *".....30. Their Lordships cited with approval the following passage from Halsbury's Laws of England (4th Edition) (Vol. 3, at page 118, para 160) :-*
>
> *"160. Interest. By the universal custom of bankers, a banker has the right to charge simple interest at a reasonable rate on all overdrafts. An unusual rate of interest, interest with periodical rests, or compound interest can only be justified, in the absence of express agreement, where the customer is shown or must be taken to have acquiesced in the account being kept on that basis. Whether such acquiescence can be assumed from his failure to protest at an interest entry in his statement of account is doubtful.*
>
> *Acquiescence in such charges only justifies them so long as the relation of banker and customer exists with respect to the advance. If the relation is altered into that of mortgagee and mortgagor by the taking of a mortgage, interest must be calculated according to the terms of the mortgage, or according to the new relation.*
>
> *The taking of a mortgage to secure a fluctuating balance of an overdrawn account, is not, however, inconsistent with the relation of a banker and customer, so as to displace a previously accrued right to charge compound interest.*

15 (2010) 6 SCC 193 (paras 48, 52 and 70

16 2000 SCC OnLine Karn 832 (paras 17 and 21)

17 AIR 2017 MP 103 (paras 2, 69-75)

18 1963 SCC OnLIne SC 132

19 (2002) 1 SCC 367 (paras 30, 38 and 39)

It is the practice of bankers to debit the accrued interest to the borrower's current account at regular periods (usually half-yearly); where the current account is overdrawn or becomes overdrawn as the result of the debit the effect is to add the interest to the principal, in which case it loses its quality of interest and becomes capital."

……..

38. However 'penal interest' has to be distinguished from 'interest'. Penal interest is an extraordinary liability incurred by a debtor on account of his being a wrong-doer by having committed the wrong of not making the payment when it should have been made, in favour of the person wronged and it is neither related with nor limited to the damages suffered. Thus, while liability to pay interest is founded on the doctrine of compensation, penal interest is a penalty founded on the doctrine of penal action. Penal interest can be charged only once for one period of default and, therefore, cannot be permitted to be capitalised.

39. Mulla on the Code of Civil Procedure (1995 Edition) sets out three divisions of interest as dealt in Section 34 of CPC. The division is according to the period for which interest is allowed by the Court, namely- (1) interest accrued due prior to the institution of the suit on the principal sum adjudged; (2) additional interest on the principal sum adjudged, from the date of the suit to the date of the decree, at such rate as the Court deems reasonable; (3) further interest on the principal sum adjudged, from the date of the decree to the date of the payment or to such earlier date as the Court thinks fit, at a rate not exceeding 6 per cent per annum. Popularly the three interests are called pre-suit interest, interest pendente lite and interest post-decree or future interest. Interest for the period anterior to institution of suit is not a matter of procedure; interest pendente lite is not a matter of substantive law (See, Secretary, Irrigation Department, Government of Orissa & Ors. v. G.C. Roy, [1992] 1 SCC 508, Pr. 44-iv). Pre-suit interest is referable to substantive law and can be sub-divided into two sub-heads; (i) where there is a stipulation for the payment of interest at a fixed rate; and (ii) where there is no such stipulation. If there is a stipulation for the rate of interst, the Court must allow that rate upto the date of the suit subject to three exceptions; (i) any provision of law applicable to money lending transactions, or usury laws or any other debt law governing the parties and having an overriding effect on any stipulation for payment of interest voluntarily entered into between the parties; (ii) if the rate is penal, the Court must award at such rate as it deems reasonable; (iii) even

> *if the rate is not penal the Court may reduce it if the interest is excessive and the transaction was substantially unfair. If there is no express stipulation for payment of interest the plaintiff is not entitled to interest except on proof of mercantile usage, statutory right to interest, or an implied agreement. Interest from the date of suit to date of decree is in the discretion of the Court. Interest from the date of the decree to the date of payment or any other earlier date appointed by the Court is again in the discretion of the Court - to award or not to award as also the rate at which to award. These principles are well established and are not disputed by learned counsel for the parties. We have stated the same only by way of introduction to the main controversy before us which has a colour little different and somewhat complex. The learned counsel appearing before us are agreed that pre-suit interest is a matter of substantive law and a voluntary stipulation entered into between the parties for payment of interest would being the parties as also the Court excepting in any case out of the three exceptions set out hereinbefore.*
>
> *……."*

28. Learned Senior Counsel appearing for the petitioner, in support of his submissions, has also placed reliance on the judgment in **Secretary, Irrgation Department, Government of Orissa & ors. v. G.C. Roy**[20]**,** specially in the context, wherein the agreement does not provide either for grant or denial of interest and the question arises whether in such an event the Arbitrator has power and authority to accord pendente lite interest. For ready reference, the relevant portion of the said judgment is reproduced as under:-

> *"……..10. Certain English decisions including the decisions in Chandris 1951 (1) K.B. 240 were brought to the notice of the learned Judges apart from certain passages from Halsbury's Law of England and Russell's Arbitration. The learned Judge however, refrained from referring to them in view of the abundance of authoritative pronouncements by this Court. The correctness of the decision in Jena's case is challenged by the respondent. We therefore departed from the normal rule and heard learned Counsel for the respondent Mr. Milon Banerji before hearing the*

20 (1992) 1 SCC 508

appellant's counsel. Mr. Banerji appearing for the respondent made the following submissions:

(1) The power of an Arbitrator to award interest is by virtue of an implied term in the arbitration agreement or reference i.e. by virtue of the arbitrator's implied authority to follow the ordinary rules of law;

(2) It is an implied term in every arbitration agreement that the arbitrator will decide the dispute according to Indian Law. Though Section 34 of the civil Procedure Code does not expressly apply to arbitrators, its principle applies, just as the principle of several other provisions (e.g., Section 3 of the Limitation Act) has been held applicable to the arbitratOrs. Inasmuch as the arbitrator is an alternative forum for resolution of disputes he must be deemed to possess all such powers as are necessary to do complete justice between the parties. The power to award interest pendente lite is a power which must necessarily be inferred to do complete justice between the parties. The principle is that a person who has been deprived of the use of money should be compensated in that behalf.

In short it is based upon the principle of compensation or restitution, as it may be called.

(3) In every case where the arbitration agreement does not exclude the jurisdiction of the arbitrator to award interest pendente lite, such power must be inferred.

(4) The decision in Jena does not take into account several earlier decisions of this Court where the power of the arbitrator to award interest pendente lite has been upheld. Many such decisions have been explained away as cases where reference to arbitration was in a pending suit, though as a matter of fact it is not so. Even on principle the said decision does not represent the correct view.

……..

12. On the other hand, Shri Sanghi, learned Counsel appearing for the State of Orissa urged that interest was never regarded as a matter of right at common law. It is either a matter of agreement or a right created by statute. Of Course, interest can also be awarded on the ground of equity but that is applicable only to limited class of cases referred to in the decision of Privy Council in Bengal Nagpur Railway Co. Ltd. v. Ruttanji Ramji and Ors. 65 LA. 66. This indeed is the basis of the judgment of this Court in Seth Thawardas Pherumal v. The Union of India: [1955]2SCR48 . According to learned Counsel, a reading of Sections 3,

17 and 41 of the Arbitration Act goes to establish that arbitrator is denied such a power. If this Court holds that the arbitrator has the power to award interest pendente lite on the ground that principle of Section 34 C.P.C. avails him though the section itself does not if apply, it will open the door for innumerable cases. It will create room for submitting that all the powers of the civil Court should be inferred in the case of arbitrator as well as by extending the same analogy. This would indeed amount to legislation by this Court which it ought to desist from doing.

(Emphasis added)

…….

40. The first decision relied upon by him is in Union of India v. West Punjab Factories Ltd. : [1966]1SCR580 . He referred to the passage at Page 590 to contend that the Constitution Bench in this case has approved decision in Thawardas. We do not agree. The question, the Constitution Bench was considering in the said paragraph was whether interest could be awarded for the period prior to the institution of the suit. (It was not a case under Arbitration Act but was a civil Suit). In that connection the Court referred to Thawardas, as laying down the correct law in that behalf, alongwith Bengal Nagpur Railway (supra) and Union of India v. A.L. Rallia Ram : [1964]3SCR164 . It is not possible to read this paragraph as approving or affirming the decision of Thawardas insofar as it held that an arbitrator had no power to award interest pendente lite.

…….

43. The question still remains whether arbitrator has the power to award interest pendente lite, and if so on what principle. We must reiterate that we are dealing with the situation where the agreement does not provide for grant of such interest nor does it prohibit such grant In other words, we are dealing with a case where the agreement is silent as to award of interest. On a conspectus of aforementioned decisions, the following principles emerge:

(i) A person deprived of the use of money to which he is legitimately entitled has a right to be compensated for the deprivation, call it by any name. It may be called interest, compensation or damages. This basic consideration is as valid for the period the dispute is pending before the arbitrator as it is for the period prior to the arbitrator entering upon the reference. This is the

principle of Section 34, C.P.C., and there is no reason or principle to hold otherwise in the case of arbitrator.

(ii) an arbitrator is an alternative form for resolution of disputes arising between the parties. If so, he must have the power to decide all the disputes or differences arising between the parties. If the arbitrator has no power to award interest pendente lite, the party claiming it would have to approach the Court for that purpose, even though he may have obtained satisfaction in respect of other claims from the arbitrator. This would lead to multiplicity of proceedings.

(iii) An arbitrator is the creature of an agreement It is open to the parties to confer upon him such powers and prescribe such procedure for him to follow, as they think fit, so long as they are not opposed to law. (The proviso to Section 41 and Section 3 of Arbitration Act illustrate this point). All the same, the agreement must be in conformity with law. The arbitrator must also act and make his award in accordance with the general law of the land and the agreement.

(iv) Over the years, the English and Indian Courts have acted on the assumption that where the agreement does not prohibit and a party to the reference makes a claim for interest, the arbitrator must have the power to award interest pendente lite. Thawardas has not been followed in the later decisions of this Court. It has been explained and distinguished on the basis that in that case there was no claim for interest but only a claim for unliquidated damages. It has been said repeatedly that observations in the said judgment were not intended to lay down any such absolute or universal rule as they appear to, on first impression. Until Jena's case almost all the Courts in the country had upheld the power of the arbitrator to award interest pendente lite. Continuity and certainty is a highly desirable feature of law.

(v) Interest pendente lite is not a matter of substantive law, like interest for the period anterior to reference (pre-reference period). For doing complete justice between the parties, such power has always been inferred.

44. Having regard to the above considerations, we think that the following is the correct principle which should be followed in this behalf:

Where the agreement between the parties does not prohibit grant of interest and where a party claims interest and that dispute (alongwith the claim for principal amount or independently) is referred to the

arbitrator, he shall have the power to award interest pendente lite. This is for the reason that in such a case it must be presumed that interest was an implied term of the agreement between the parties and therefore when the parties refer all their disputes-or refer the dispute as to interest as such-to the arbitrator, he shall have the power to award interest. This does not mean that in every case the arbitrator should necessarily award interest pendente lite. It is a matter within his discretion to be exercised in the light of all the facts and circumstances of the case, keeping the ends of justice in view.

……..”

29. Reliance has also been placed on the judgment in **LIC of India & Anr. v. S. Sindhu[21],** wherein it is held that the courts cannot rewrite the contract of insurance and cannot direct the insurer to pay interest contrary to the terms of the contract. For ready reference, the relevant paras of the said judgment is reproduced as under:-

“…….9. We will now examine whether award of interest can be sustained in any manner. It is now well-settled that interest prior to the date of suit/claim (as contrasted to pendente-lite interest and future interest) can be awarded in the following circumstances :

(a) Where the contract provides for payment of interest; or

(b) Where a statute applicable to the transaction/ liability, provides for payment of interest; or

(c) Where interest is payable as per the provisions of the Interest Act, 1978.

……..

13. Let us now consider the provisions of Interest Act, 1978 ('Act' for short) which deals with payment of interest upto the date of suit/ claim. The Act was enacted to consolidate and amend the law relating to the allowance of interest in certain cases. The objects and reasons states that the Act was enacted to prescribe the general law of interest in a comprehensive and precise manner, which becomes applicable in the absence of any contractual or statutory provision specifically dealing with interest. Sub-section (1) of Section 3 of the Act provides that in any proceedings for the recovery of any debt or damages, or in any proceedings in which a claim for interest in respect of any debt or damages already paid is made, the Court may, if it thinks fit, allow interest to the person entitled to the debt or damages or to the person making such claim, as the case may be, at a rate not exceeding the current rate of interest, for the whole or part of the following period, that is to say, --

21 (2006) 5 SCC 258

(a) if the proceedings relate to a debt payable by virtue of a written instrument at a certain time, then, from the date when the debt is payable to the date of institution of the proceedings;

(b) if the proceedings do not relate to any such debt, then, from the date mentioned in that regard in a written notice given by the person entitled or the person making the claim to the person liable that interest will be claimed, to the date of institution of the proceedings.

……..

15. Even assuming that interest can be awarded on grounds of equity, it can be awarded only on the reduced sum to be quantified and paid from the date when it becomes due under the policy (that is on the date of death of the assured) and not from any earlier date. We do not propose to examine the question as to whether interest can be awarded at all, on equitable grounds, in view of the enactment of Interest Act, 1978 making a significant departure from the old Interest Act (of 1839). The present Act does not contain the following provision contained in the proviso to section (1) of the old Act :"interest shall be payable in all cases in which it is now payable by law." How far the decisions of this Court in Satinder Singh v. Umrao Singh etc. [AIR 1961 SC 908] and Hirachand Kothari (D) by LRs. v. State of Rajasthan & Anr. [1985 Supp SCC 17] and the decision of the Privy Council in Bengal Nagpur Railway Co. Ltd., vs. Rultanji Ramji [AIR 1938 PC.67], holding that interest can be awarded on equitable grounds, all rendered with reference to the said proviso to section (1) of old Interest Act (Act of 1839), will be useful to interpret the provisions of the new Act (Act of 1978) may require detailed examination in an appropriate case.

……..

17. This takes us to the question whether the decision in Harshad J. Shah (supra) lays down any principle of law that LIC should pay such interest on the premium amounts, from the dates of payment of premium, as assumed by the Consumer Forum, State Commission and National Commission. We have carefully examined the said decision and find that no such principle is enunciated therein. In that case, one J. took out four insurance policies on 6.3.1986 through a general agent of LIC. The insured paid the first and second premiums. The third half- yearly premium which fell due on 6.3.1987 was not paid within the prescribed period. On 4.6.1987, the general agent of LIC obtained from J a bearer cheque dated 4.6.1987 for Rs.2,730/-, (being the half-yearly premium in regard to the four policies), encashed the cheque through his son, and deposited the premium with LIC on 10.8.1987. In the meanwhile, the insured died on 9.8.1987. The widow of the deceased, as the nominee under the policy, made a claim with LIC for payment of the sum assured under the four policies. It was repudiated by the LIC on the ground that the policies had lapsed on account of non-payment of half-yearly premium which fell due on 6.3.1987, within the grace period. The widow of the insured submitted a complaint to the State Commission claiming the sum assured under the said 4 policies, namely, Rs.4,32,000/-. The State Commission held that LIC was negligent in its service to the policyholder and directed LIC to settle the claim. On the other hand, the National Commission held that the Insurance Agent was not acting as agent of LIC in receiving

the bearer cheque from the insured and therefore, LIC was not liable. That order was challenged by the claimant before this Court. The question that arose for consideration of this Court in that case was whether the payment of premium in respect of a life insurance policy by the insured to the general agent of the LIC can be regarded as payment to the insurer so as to constitute a discharge of liability of the insured. This Court answered the said question in the negative. No other question was raised or considered by this Court. Consequent to its decision, the appeal was disposed of by this Court with the following directions :

"For the reasons aforementioned, we are unable to uphold the claim of the appellants. No ground is made out for interfering with the decision of the National Commission that Respondent 3 in receiving the bearer cheque for Rs.2730 from the insured was not acting as an agent of the LIC. But keeping in view the facts and circumstances of the case we direct the LIC to refund the entire amount of premium paid to the LIC on the four insurance policies to Appellant 2 along with interest @ 15% per annum. The interest will be payable from the date of receipt of the amounts of premium. "

[Emphasis supplied]

……..

21. However, we find that the following order had been passed on 7.8.2000 while granting leave :

"Learned Solicitor General has placed on record copy of the communication received by the instructing counsel dated 26th July, 2000, according to which amount payable to the respondent, as per directions of the Consumer Disputes Redressal Commission, have already been paid. It is submitted that irrespective of the result of the appeal, the amount which stands paid, shall not be sought for any adjustment, in the peculiar facts and circumstances of the case and no relief would be sought in that behalf against the respondent. It is submitted that the question of law involved in the case is of great importance and likely to arise in other cases."

22. In view of it, this decision does not render the respondent liable to refund any amount already received in pursuance of the order of the consumer forum, even though we have held that the respondent is not entitled to any interest on Rs.1,13,750/-. We may clarify the contents of this para is purely based on a concession made on 7.8.2000."

30. Learned Senior Counsel appearing for the petitioner submitted by giving an example before this Court that suppose while X and Y may be parties operating under a particular contract, if any amount becomes payable by X to Y on account of an act, event or reason occurring outside the terms of that contract, X will not be liable to pay interest to Y on that amount on the basis of the said contract. He explained that if amounts A, B and C are items of consideration payable by X to Y under the terms of a contract, A and B being amounts with provisions for

interest for delayed payment and C not even having any such provision, and on account of some reason, though pertaining to the subject matter of the said contract but still outside the terms of that contract, a further amount D becomes payable by X to Y, then for any delayed payment on the amounts A, B, C or D:

a) Interest on amounts A and B will be payable as per their respective provisions for interest as stipulated in the terms of the said contract

b) Interest on amount C may be payable under the provisions of Interest Act.

c) No interest will be payable on amount D unless it has arisen due to a separate express or implied contract. If the reason for amount D is a separate express or implied contract, then (as in the case of C) interest on the amount D may also be payable under the provisions of Interest Act.

31. He submits that merely because an amount becomes payable by X to Y for some reason, interest does not ipso facto become payable for any delay in payment thereof unless the said amount has the legal character of a 'debt' or 'liability' under Interest Act. Interest on the ground of equity was granted only in specific circumstances which would attract the jurisdiction of an equity court, not because the claimant had taken a Bank loan and had himself been paying interest to the Bank, the Court could not award interest just because it thought it was reasonable to do so. In support of his submissions, he has placed reliance on the judgments in **Bengal Nagpur Railway Co. v. Ruttanji Ramji**[22], **Seth Thawardas Pherumal v. Union of India**[23], **Union of India v. A.L. Rallia Ram**[24] and **Union of India v. West Punjab Factories**[25].

32. Learned Senior Counsel appearing for the petitioner has assertively argued that the impugned demand for interest on additional compensation is also devoid of merit as the same was unilaterally and

22 AIR 1938 PC 67

23 AIR 1955 SC 468

24 AIR 1965 SC 1685

25 AIR 1966 SC 395

high-handedly fixed by the YEIDA authorities without pursuing the legal procedure and method available to it in law, namely, by filing a suit, claim petition or 'proceeding' in the capacity of a plaintiff or claimant itself praying for the relief of interest from the petitioner in the court constituted for that purpose under Section 3 of the Interest Act. Inspite of being a statutory body, the YEIDA has no independent right, jurisdiction or authority in law to raise a demand of interest from any citizen and allottee at its own sweet-will without following the due procedure and remedy prescribed by law. As such the interest, which has been asked by YEIDA through its demand notices on additional compensation is ultra vires the scheme of Interest Act and that so without jurisdiction and arbitrary.

33. In support of his submissions, he has placed reliance on the judgment in Jyothi Ltd. v. Boving Fouress (Supra), wherein it has been held by the Karnataka High Court that even in a petition for winding up of a company instituted by a creditor against a company, he cannot seek the relief of interest as a disputed sum from the court. The Court held that even though it may result in multiplicity of proceedings, the claim for interest should be made by the claimant in a regular and separate 'proceeding' brought by him squarely under the Interest Act for the specific relief of award of interest by the Court. For ready reference, para 21 of the said judgment is quoted as under:-

> *"21. I may now summarise the legal position as to claims for "interest" in a proceeding for winding up under section 433(e) of the Act:*
>
> *(d) Where there is bona fide dispute in regard to interest, the court considering a petition under section 433(e) should not decide the issue, merely to avoid multiplicity proceedings. The purpose of winding up proceedings being completely different from the purpose of proceedings for recovery of a debt, winding up proceedings are not a substitute for a civil suit and therefore relegating parties to a civil suit, cannot be considered as resulting in multiplicity of proceedings.*
>
> *(e) Interest under section 61(2)(a) of the Sale of Goods Act, can be awarded by a court in a suit for recovery of the price of goods. Interest under section 3 of the Interest Act, can be awarded in any proceedings for recovery of any debt or damages or in any proceedings for interest (on any debt or damages already paid). Both*

> *these provisions specifically provide that interest can be awarded only in proceedings to recover money. They do not contemplate award of interest in proceedings which are not for recovery of money. Proceedings for winding up being proceedings not for recovery of money, no interest can be permitted or granted under section 61(2)(a) of the Sale of Goods Act, 1930, or section 3 of the Interest Act.*

34. He has submitted that in the absence of any proceeding instituted by YEIDA as the plaintiff or claimant itself under Section 3 of the Interest Act, there is no scope for interest being claimed or justified by it or being awarded to it by this Court. He submitted that the impugned demands dated 15.12.2014 and 20.09.2022 insofar as they levy interest and / or penal interest, are without the basis of any substantive statutory law. On the one hand, it is clear that there is no written contract, implied agreement or trade usage warranting the levy of interest and on the other hand there is also no substantive enactment by the Legislature for the grant of interest as per Section 4 read with Section 3 of Interest Act. Moreso, the G.O. in question dated 29.08.2014 too did not provide for any interest on delay in the payment of additional compensation. As such the demand letters are without jurisdiction ultra vires, and violative of Articles 14 and 19 (1) (g) of the Constitution of India, illegal and unconstitutional. Ref. **V.V.S. Sugars v. State of AP (CB)**[26] and **Shree Bhagwati Steel Rolling Mills v. CCE**[27]. For ready reference, the judgment in V.V.S. Sugars (Supra) is reproduced as under:-

> *"We are concerned with the interpretation of Section 21 of the Andhra Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1961, as amended by Act 25 of 1976. Principally, the provisions to be dealt with are sub-sections 3D, 4 and 5 of Section 21 which read thus:*
>
> *(3-D) In relation to the tax levied under sub-section (1) and in respect of purchase of sugarcane on or after the date of commencement as aforesaid :-*
>
> *(a) Sub-sections (4) and (5) shall not apply, and the tax shall be deemed due date of purchase of sugarcane or the date of commencement as aforesaid, whichever is later,*
>
> *(b) Sub-section (3-C) shall apply with the modification that where the assessing authority is satisfied that the Occupier of a factory or Owner of Khandasari unit has removed or cause to be removed any*

26 (1999) 4 SCC 192

27 (2016) 3 SCC 643

sugar in contravention of the provision of this section or has failed to account fully for the sugar produced in the factory or Khandasari unit or deposited by him under the provision to sub-section (3), the person liable to pay the tax shall in addition to the amount payable under sub-section (3) in respect of the quantity of sugar so removed or caused to be removed or unaccounted for, be also liable to pay by way of penalty a further sum not exceeding one hundred percent of the sum so payable;

(c) The provisions of the sub-section shall be without prejudice to the provisions of sub-section (3-C).

(4) The tax payable under sub-section (1) shall be levied and collected from the Occupier of the factory or Owner of the Khandasari unit in such manner and by such authority as may be prescribed.

(5) Arrears of tax shall carry interest at such rate as may be prescribed,

2. The question is whether, subsequent to the said provisions as amended, any interest could be levied on arrears of tax under sub-rule (4) of Rule 45 of the Andhra Pradesh Sugarcane (Regulation of Supply & Purchase) Rules, 1961. Rule 45, so far as it is relevant, reads thus :

45(3) Any amount of tax still remaining unpaid, as finally arrived at, at the end of the crushing season on the revised assessment of tax worked out and communicated by the assessing authority under sub-section (3-B) of Section 21, shall be treated as arrear under sub-section (5) of Section 21 of the Act.

(4) Such arrears shall carry interest at the rate of 16 percent per annum from the date following the date of closure of crushing till the amount is finally paid.

3. The argument on behalf of the appellants is that by reason of clause (a) of sub-section 3D of Section 21, as amended, sub-sections (4) & (5) thereof are not to apply in respect of purchases of sugarcane made on or after the date of the commencement of the Amending Act, which was 29th December, 1975; that sub-section (5) of Section 21 was the provision that required the payment of interest on arrears of tax; and that, having regard to the inapplicability of that provision for the relevant period, no interest could be levied. The High Court in the principal judgment, which was followed in the subsequent orders, took the view that the scope of sub-section 3D of Section 21 and its application was restricted to the crushing season 1975-76 during which the Amending Act had come into force.

4. The said Act is a taxing statute and a taxing statute must be interpreted as it reads, with no additions and no subtractions, on the ground of legislative intendment or otherwise.

5. On the plain wording of clause (a) of sub-section (3D) of Section 21 of the Act as amended, we find it difficult to agree with the High Court. The provisions thereof say that sub-section (5) shall not apply in relation to tax levied under sub-section (1) of Section 21 on purchase of sugarcane. The provisions came into force on the date of the commencement of the Amending Act. The provisions are open ended and are intended to apply upon the commencement of the Amending Act with no limitation in time.

> *6. This Court in India Carbon Limited & Ors. vs. State of Assam (1997 (6) SCC 479) has held, after analysing the Constitution Bench judgment in J.K. Synthetic vs. CTO (1994 (4) SCC 276), that interest can be levied and charged on delayed payment of tax only if the statute that levies and charges the tax makes a substantive provision in this behalf. There being no substantive provision in the Act for the levy of interest on arrears of tax that applied to purchases of sugarcane made subsequent to the date of commencement of the Amending Act, no interest thereon could be so levied, based on the application of the said Rule 45 or otherwise.*
>
> *7. The appeals are allowed. The judgments and orders under appeal are set aside.*
>
> *8. This Court, by order dated 23rd Novemeber, 1983, had refused stay of the judgment and orders under appeal and had directed that, in the event the appeals succeeded and the respondents were held liable to refund the amounts recovered on account of refusal of stay, the entire amounts should be refunded within three months from the date of the order with 18% interest from the date of the payment till the amounts were refunded. The appeals having succeeded, the respondents shall refund the amounts that the appellants have paid within three months from today with interest at the rate of 18% per annum from the date of payment till the refund is made. No order as to costs."*

35. He further submitted that it is well settled principle of law that when the status is clear the equity has no role to play. Even if for the sake of argument the legal and jurisdictional precondition of Section 6 of the Interest Act are kept aside, in the special facts and circumstances of the petitioner's case, the Court would not think it fit and equitable to allow interest. He submits that equity stands excluded from Interest Act. Ref. LIC of India & Anr. v. S. Sindhu (Supra) (para 15). He submits that the equity has to follow law, if the law is clear and unambiguous. Ref. **Celir LLP vs. Bafna Motors (Mumbai) Pvt. Ltd. and Ors.[28].** Even otherwise in **NTPC Ltd. vs. M.P. State Electricity Board and Ors.[29],** Hon'ble Supreme Court has held that interest cannot be awarded on the ground of equity, if the circumstances of the case do not warrant the same. Heavy reliance has also been placed on the judgment of Hon'ble Supreme Court in **T.M.A. Pai Foundation v. State of Karnataka[30].**

36. Lastly he has submitted that there are various reasons for refusal of interest as the petitioner is an educational society, which is inherently

28 (2024) 2 SCC 1

29 (2011) 15 SCC 580

30 (2002) 8 SCC 481

charitable and non-profitable in nature. The petitioner has used the land allotted to it not for establishing any profit making industry, therefore, the same is distinguishable from other commercial and profit making enterprises. Even if interest is awarded against the builders, colonisers and other allottees, who had given undertaking and entered into implied agreement with the authorities to pay additional compensation for being protected from the farmers' agitation, whereas in the present matter, the petitioner society has not faced any such crisis and accordingly had never given any such undertaking and even did not enter into any such implied agreement with the Government or YEIDA. Whereas other builders, at the time of farmers' agitation, had given undertaking to the Authorities and had made a commitment for payment of additional compensation for being protected from the farmers' agitation. Even they indulged in unjust enrichment by collecting additional compensation from their end users namely home buyers or flat owners. It is claimed that the petitioner has not collected any such sum from its end users namely the students. Therefore, the question of petitioner having any debt or liability to pay additional compensation did not arise as there is no default and there can be no interest.

37. We have also heard Shri H.N. Singh, learned Senior Advocate appearing in the connected matter, who has strenuously argued on various grounds. The said arguments are in line with the arguments advanced by Shri Sunil Gupta, learned Senior Advocate appearing in the leading writ petition and as such, we do not find additional arguments, which are to be considered separately.

ARGUMENTS ON BEHALF OF RESPONDENT-YEIDA

38. Shri Manish Goyal, learned Senior Counsel appearing for YEIDA has submitted that the petitioner and other similarly situated persons had earlier invoked the extraordinary jurisdiction of the High Court for quashing the demand of additional compensation in respect of land leased out to it, Board Resolution in question and the G.O. in question, whereby the said demand was permitted and allowed to be recovered

from the allottees. Even it was also prayed for a direction that the State as well as YEIDA be restrained from demanding any additional amount over and above as mentioned in the lease deed. The Division Bench of this Court vide judgment and order dated 28.05.2020 had allowed all such writ petitions in Shakuntla Educational and Welfare Society v. State of U.P. & Ors. (Supra). Thereafter, the YEIDA had challenged the same before Hon'ble Apex Court in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra).

39. Shri Manish Goyal, learned Senior Counsel appearing for YEIDA has vehemently submitted that the validity of demand of additional compensation along with interest thereon by the YEIDA is no more res integra in view of the judgment passed by Hon'ble Apex Court in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra), wherein Hon'ble Apex Court had dismissed the challenge to the demand for additional compensation including interest levied by YEIDA in the demand letters thereof. Present litigation is an attempt to reagitate the issue, which the Supreme Court has already conclusively decided and resolved the matter. The Supreme Court had set aside the Division Bench judgment in Shakuntla Educational and Welfare Society v. State of U.P. & Ors. (Supra) and dismissed the challenge to the demand of additional compensation including interest levied by YEIDA in first demand notice.

40. It is contended that the first demand notice sent to the petitioner for payment of additional compensation expressly stipulated three terms:-

a) Rate of additional compensation @ 600/sqm;

b) Four installments for payment of the entire additional compensation;

c) Levy of interest in case of failure to deposit additional compensation by the specified dates.

41. Admittedly the petitioner had challenged not only the first demand notice but also assailed the validity of the G.O. in question as well as the Board Resolution in question mainly on the ground that the decision of the Full Bench of the High Court in Gajraj (Supra) is not applicable in respect of land acquired for YEIDA. The burden of additional compensation cannot be shifted upon the allottees and the YEIDA cannot realize any amount over and above, which has been mentioned in the allotment letter or in the lease deed, which is a binding contract. Earlier writ petition was allowed by means of judgment and order dated 28.05.2020 and the Division Bench had quashed the G.O. in question as well as the Board Resolution in question. Against the said judgment, the YEIDA had preferred SLP No.10034 of 2020 before Hon'ble Supreme Court, which was converted into Civil Appeal No.4218-4219 of 2022. The said appeals were allowed by Hon'ble Supreme Court in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra) and the judgment of this Court dated 28.05.2020 had been reversed. Hon'ble Supreme Court while deciding the same had not only approved the G.O. in question of the State Government but also approved the Board Resolution in question of YEIDA regarding additional compensation by holding that the same was policy decision in public interest and it overrides the private treaty between the parties. He has vehemently submitted that even though the Supreme Court had approved the G.O. in question as well as the Board Resolution in question but the petitioner, inspite of first demand notice, did not turn up and deposit the requisite amount in response to the said notice. Consequently, another notice dated 20.09.2022 (consequential demand notice) was issued, which is impugned in the present writ petition, whereby YEIDA again demanded additional compensation with interest for default in payment of additional compensation.

42. He submitted that in the present petition the main grievance of the petitioner is the levy of interest on the additional compensation but the petitioner had deliberately challenged the demand for additional

compensation on the ground of proportionality and the quantum. However, at the admission stage, the Division Bench while entertaining the present writ petition vide interim order in question had dismissed the challenge to the additional compensation on these two grounds and only on the issue of interest, the Court had entertained the writ petition and accorded a conditional stay order. The interim order in question was not challenged by the petitioners and the condition mentioned in the interim order in question was also complied with by the petitioner. Hence the scope of the present writ petition is now limited to the issue of interest only.

43. In the earlier petition the petitioner has already assailed the validity of the first demand notice and as per first demand notice issued by YEIDA the petitioner was required to pay additional compensation explicitly outlying the imposition of penal interest in the event of failure to deposit the additional compensation by the specific date. Consequently, the demand notice dated 09.02.2018, which was also known to the petitioner and also under challenge in earlier petition and thereafter the consequential demand notice (impugned in this writ petition), which are consequential to the first demand notice, cannot be questioned in the subsequent writ petition. The first demand notice was strictly in compliance with the Board Resolution in question. Even this Court in its interim order in question had also approved the first demand notice as the same was in compliance of the Board Resolution. Since the challenge of the petitioner was dismissed, it is not open to the petitioner to challenge it again. Moreover, the first demand notice has been upheld by Hon'ble Apex Court, therefore, at this stage, the challenge qua either the rate at which additional compensation has been demanded or levy of penal interest, the same is not open to be challenged by the petitioner.

44. It is contended that another application was also filed by another allottee-M/s Jai Prakash Associates (in short "JAL") before Hon'ble Supreme Court for directions regarding the YEIDA's ability to recover

the additional compensation from the allottees, along with disputing the imposition of interest by YEIDA for delayed payment of additional compensation. One of the grounds in the said application was that "*without having paid the concerned farmers additional compensation itself, has imposed a component interest on the applicant for delay in payment of the additional compensation amount."* Hon'ble Supreme Court vide its order dated 10.08.2022 dismissed JAL's application. Furthermore, after the decision in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra) an application was filed by JAL seeking a review of it but the same was also dismissed by the Supreme Court on 31.01.2023. Therefore, it is contended that the principle of constructive res judicata shall be applicable debarring the petitioner to challenge the demand on any ground especially on the interest in a subsequent writ petition. Reliance in this regard has been placed on **State Bank of India v. Gracure Pharmaceuticals Ltd.**[31]**.** The relevant paragraphs of the said judgment is reproduced as under:-

> *"……..11. The above-mentioned decisions categorically lay down the law that if a plaintiff is entitled to seek reliefs against the defendant in respect of the same cause of action, the plaintiff cannot split up the claim so as to omit one part to the claim and sue for the other. If the cause of action is same, the plaintiff has to place all his claims before the Court in one suit, as Order 2 Rule 2, CPC is based on the cardinal principle that defendant should not be vexed twice for the same cause.*
>
> *12. Order 2 Rule 2, CPC, therefore, requires the unity of all claims based on the same cause of action in one suit, it does not contemplate unity of distinct and separate cause of action. On the above-mentioned legal principle, let us examine whether the High Court has correctly applied the legal principle in the instant case.*
>
> *……*
>
> *17. When we go through the above quoted paragraph it is clear that the facts on the basis of which subsequent suit was filed, existed on the date on which the earlier suit was filed. The earlier suit was filed on 15.03.2003 and subsequent suit was filed on 21.05.2003.* ***No fresh cause of action arose in between the first suit and the second suit.*** *The closure of account, as already indicated, was intimated on 20.03.2002 due to the alleged fault of the respondent in not regularizing their accounts i.e. after non-receipt of payment of LC, the account became irregular. When the first suit for recovery of dues was filed i.e. on 15.03.2001 for alleged relief, damages sought for in the subsequent suit could have also been sought for. Order 2 Rule 2*

31 (2014) 2 SCC 959

> *provides that every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the same cause of action. Respondent is not entitled to split the cause of action into parts by filing separate suits.* ***We find, as such, that respondent had omitted certain reliefs which were available to it at the time of filing of the first suit and after having relinquished the same, it cannot file a separate suit in view of the provisions of sub- rule 2 of Order 2 Rule 2, CPC. The object of Order 2 Rule 2 is to avoid multiplicity of proceedings and not to vex the parties over and again in a litigative process. The object enunciated in Order 2 Rule 2, CPC is laudable and it has a larger public purpose to achieve by not burdening the court with repeated suits……..***.
>
> *(Emphasis supplied)*

45. Shri Manish Goyal, learned Senior Counsel appearing for YEIDA submitted that learned Senior Counsel appearing for the petitioner has placed heavy reliance upon 'equity' and 'interest'. Therefore, the said aspect can be broadly analyzed by considering the following three questions:-

a) Whether the allottee is liable to pay interest during the pendency of litigation initiated by allottee?

b) Whether under the facts of the present case, interest can be claimed by way of restitution as part of an equitable right?

c) Whether the allottee, due to non-fulfilment of the conditions mentioned in the Board Resolution, is liable to pay penal interest from the date of the demand till the date of actual payment, especially considering that the Board Resolution has been upheld by the Supreme Court?

46. As regards the first question, he submitted that the additional compensation is nothing but the cost of the land. The said stand is also fortified in the light of G.O. in question, which unambiguously mandates that the additional compensation is an integral part of the cost of the allotted land. Only in the said light, the Board resolution was also passed. The lease deed constitutes a specific contractual arrangement between the Government and the private party but the Government Order in question as well as Board Resolution in question override its terms with respect to the consideration of the cost of land allocation. The said stand is further fortified, once the G.O. in question as well as the Board Resolution in question had been approved by the Supreme Court in Yamuna Expressway Industrial Development

Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra).

47. Referring to the second question, he submitted that the first demand notice also stipulates that the installments would be commenced after three months and the principal amount was to be deposited in four quarterly installments. The said demand was raised as a cost of land. The first demand notice is of the year 2014 but the petitioner had deliberately evaded the payment of additional compensation in terms of G.O. and Board Resolution and as an afterthought he preferred previous writ petition in the year 2018. The interim order was accorded by the Division Bench on 29.08.2018 and the Government Order in question as well as Board Resolution in question was set aside on 28.05.2020. However, Hon'ble Supreme Court vide its judgment in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra) had upheld the validity of G.O. in question and Board Resolution in question and set aside the judgment passed by the Division Bench dated 28.05.2020. Therefore, in the present matter, the concept of restitution is applicable and the same would not be governed by the provisions of Interest Act.

48. Learned Senior Counsel for YEIDA, in support of his submissions, has also placed reliance on the Constitution Bench judgment of the Supreme Court in **Indore Development Authority v. Manoharlal & Ors.**[32]**.** The relevant para 335 of the said judgment, for ready reference, is quoted as under:-

> *"335. The principle of restitution is founded on the ideal of doing complete justice at the end of litigation, and parties have to be placed in the same position but for the litigation and interim order, if any, passed in the matter.* ***In South Eastern Coalfields Ltd. v. State of M.P. 46, it was held that no party could take advantage of litigation. It has to disgorge the advantage gained due to delay in case lis is lost. The interim order passed by the court merges into a final decision. The validity of an interim order, passed in favour of a party, stands reversed in the event of a final order going against the party successful at the interim stage. Section 144 of the Code of***

32 (2020) 8 SCC 129

> ***Civil Procedure is not the fountain source of restitution. It is rather a statutory recognition of the rule of justice, equity and fair play. The court has inherent jurisdiction to order restitution so as to do complete justice. This is also on the principle that a wrong order should not be perpetuated by keeping it alive and respecting*** *it. In exercise of such power, the courts have applied the principle of restitution to myriad situations not falling within the terms of Section 144 CPC. What attracts applicability of restitution is not the act of the court being wrongful or mistake or an error committed by the court; the test is whether, on account of an act of the party persuading the court to pass an order held at the end as not sustainable, resulting in one party gaining an advantage which it would not have otherwise earned, or the other party having suffered an impoverishment, restitution has to be made. Litigation cannot be permitted to be a productive industry. Litigation cannot be reduced to gaming where there is an element of chance in every case. If the concept of restitution is excluded from application to interim orders, then the litigant would stand to gain by swallowing the benefits yielding out of the interim order."*
>
> *(Emphasis supplied)*

49. He vehemently submitted that on account of petitioner's inaction, the YEIDA had been denied payment of its lawful dues and the petitioner's endeavour was to litigate the matter and all efforts were made to delay the payment and deprive the YEIDA for its lawful dues and thereby undermine the public purpose. He submitted that in such situation YEIDA is having every right and claim to recover the interest for the period during which the petitioner obtained and enjoyed the interim protection. As a compensatory measure, YEIDA must be compensated for this delay. Moreover, though the demand of additional compensation has been found to be lawful by the Supreme Court in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra) but the petitioner refused to pay the same and denied the said amount to YEIDA. In support of his submissions, he has placed reliance on the judgment in **South Eastern Coalfields Ltd. v. State of M.P.**[33].

50. He submitted that the aforesaid principles laid down by the Supreme Court is also applied in the present matter and the action of YEIDA is fully justified and sustainable to levy interest on payment from petitioner since in the given facts it deserves to do so in the equity.

33 (2003) 8 SCC 661

51. He also submitted that the Board Resolution clearly stipulates that YEIDA will procure loans from the banks and other financial institutions to pay the additional compensation to the farmers. YEIDA borrows these loans because it provides the allottees with a two year period in the first demand notice to pay the additional compensation. However, that two year period has expired and the petitioner has not paid the amount in question.

52. Shri Manish Goyal, learned counsel for YEIDA has submitted that the G.O. in question as well as the Board Resolution in question, having been held to serve a larger public interest, constitute 'law' within the meaning of Article 13 (2) read with Article 13 (3) of the Constitution of India. Article 13 (3) (a) of the Constitution of India elaborates that "law" includes any Ordinance, order, bye-law, rule regulation, notification, custom, or usage having the force of law in India. He has also placed reliance on the seven Judge Bench judgment of the Supreme Court in **Pradeep Kumar Biswas v. Indian Institute of Chemical Biology**[34], wherein it is held in para 94 as under:-

> *"94. A reference to Article 13(2) of the Constitution is apposite. It provides-*
>
> *"13 (2) The State shall not make any law which takes away or abridges the right conferred by this part and any law made in contravention of this clause shall, to the extent of the contravention, be void".*
>
> *Clause (3) of Article 13 defines 'law' as including any Ordinance, order, bye-law, rule, regulation, notification, custom or uses having in the territory of India the force of law. We have also referred to the speech of Dr. B.R. Ambedkar in Constituent Assembly explaining the purpose sought to be achieved by Article 12. In RSEB's case, the majority adopted the test that a statutory authority "would be within the meaning of 'other authorities' if it has been invested with statutory power to issue binding directions to the parties, disobedience of which would entail penal consequences or it has the sovereign power to make rules and regulations having the force of law". In Sukhdev Singh's case, the principal reason which prevailed with A.N. Ray, CJ for holding ONGC, LIC and IFC as*

34 (2002) 5 SCC 111

authorities and hence 'the State' was that rules and regulations framed by them have the force of law.

In Sukhdev Singh's case, Mathew J. held that the test laid down in RSEB's case was satisfied so far as ONGC is concerned but the same was not satisfied in the case of LIC and IFC and, therefore, he added to the list of tests laid down in RSEB's case, by observing that though there are no statutory provisions, so far as LIC and IFC are concerned, for issuing binding directions to third parties, the disobedience of which would entail penal consequences, yet these corporations (i) set up under statutes, (ii) to carry on business of public importance or which is fundamental to the life of the people ___ can be considered as the State within the meaning of Article 12. Thus, it is the functional test which was devised and utilized by Mathew J. and there he said,

"the question for consideration is whether a public corporation set up under a special statute to carry on a business or service which Parliament thinks necessary to be carried on in the interest of the nation is an agency or instrumentality of the State and would be subject to the limitations expressed in Article 13(2) of the Constitution. The State is an abstract entity. It can only act through the instrumentality or agency of natural or juridicial persons. Therefore, there is nothing strange in the notion of the State acting through a corporation and making it an agency or instrumentality of the State".

It is pertinent to note that functional tests became necessary because of the State having chosen to entrust its own functions to an instrumentality or agency in absence whereof that function would have been a State activity on account of its public importance and being fundamental to the life of the people……..”

53. He has also placed reliance on para 12 of the Constitution Bench judgment of the Supreme Court in **H.C. Narayanappa v. State of Mysore**[35]**,** which, for ready reference, is reproduced as under:-

“…….12. In any event, the expression " law " as, defined in Art. 13(3)(a) includes any ordinance, order, bye-law, rule, regulation, notification custom, etc., and the scheme framed under s. 68C may properly be regarded as " law " within the meaning of Art. 19(6) made by the State excluding private operators from notified routes or notified areas, and immune from the attack that it infringes the fundamental right guaranteed by Art. 19(1)(g)……”

35 AIR 1960 SC 1073

54. With regard to the third question, he has vehemently submitted that the G.O. in question as well as subsequent Board Resolution in question upheld by the Supreme Court in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra) constitute 'law under Art.13 (3) of the Constitution and as an instrumentality of the State, YEIDA is legally bound to implement these directives, which in the present case, serve a public duty by ensuring the equitable distribution of additional compensation among affected farmers. This legal framework mandates YEIDA's compliance to uphold social justice and public interest, reinforcing the status of G.O. in question as lawful enactment in the pursuit of its statutory responsibilities.

55. He has further raised an objection that the land cannot be fragmented or compartmentalised on the ground that the land was developed sector wise and villages are e-phased. Sectors allotted to allottees do not explicitly mentioned the villages as area developed by the YEIDA as big chunk of land is being developed for planned development. The G.O. in question, the Board Resolution in question as well as judgment in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra) do not recognise educational institutions as special class. Therefore, there is no justification for exempting them from liability of additional compensation specially when other allottees are being required to make the same payment. He vehemently submitted that the assertion of being an educational institution in the absence of any undertaking to the State Government regarding future liability and specially in the light of affidavit sworn by the petitioner in the year 2012, wherein it affirmed to bear any future liability arising towards lease rent, cannot be considered, as the said argument had already been held to be untenable by the Supreme Court in Yamuna Expressway

Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra).

56. He has vehemently submitted that there is unjust enrichment by the petitioner institution as it had claimed status of charitable institution but nowhere provided any credible evidence to substantiate their assertion of having meagre source of income. In this regard heavy burden lies upon the petitioner to demonstrate their limited financial capacity. In the present litigation, there is no scope and ambit to scrutinse the overall financial health/ status of the institution but as the petitioner claims the status of being a charitable institution, it does not automatically exempt the petitioner from their financial obligations, especially if the institution engages in profit-generating activities. From the information available on petitioner's official website, it is evident that they are private institutions primarily focused on profit-making endeavour under the guise of providing amenities such as luxury hotels, mess facilities and other services. Furthermore, they do not publicly disclose the fees for these amenities, raising questions about transparency and financial practices.

57. It is also submitted that the petitioner has established following institutions:-

a) Galgotias Institute of Management & Technology (GIMT)
b) Galgotias College of Engineering & Technology (GCET)
c) Galgotias College of Pharmacy (GCP)
d) Galgotias University GU

58. All the aforesaid institutions are situated in the District of Gautam Buddha Nagar. Galgotias University was granted the status of a university through an enactment known as "The Galgotias University Uttar Pradesh Act, 2011[36]. The petitioner is not a minority private institution, and, therefore, the judgment in T.M.A. Pai Foundation v. State of Karnataka (Supra) cited by learned Senior Counsel for the petitioner is not applicable in the present matter as the minority private

36 Act, 2011

institutions have been explicitly excluded from the provisions of U.P. Private Universities Act, 2019[37].

59. Shri Manish Goyal, learned Senior Counsel appearing for YEIDA has vehemently submitted that Shakuntala Welfare and Education Society through Galgotias University must adhere to the regulatory requirements of both the Act, 2011 and the Act, 2019. He submitted that the Act 2019 mandates financial transparency and accountability for private universities in Uttar Pradesh but the petitioner's failure to disclose the complete fee structure for premium amenities contravenes the principles of transparency and casts doubt on its claimed charitable status. Despite claiming charitable status, the petitioner has not disclosed the full fee structure and amenities, therefore, violating transparency obligations in the present litigation.

60. This much is contended that under clause 1(A) of the Lease Deed, the Respondent Authority is entitled to levy interest (including penal interest) in case of default in payment of land premium. The clause 1 (A) provides as under:

> *"(A) the premium of Rs 21,34,79,250/- (Rupees Twenty One Crore Thirty Four Lac Seventy Niue Thousand Two Hundred Fifty only) out of which an amount equivalent to 10% of the total premium of plot has been paid by the Lessee as reservation money and the lessor hereby acknowledges the receipt thereof, and balance amount of 90% to be paid by the lessee in installments as indicated below along with interest @ 12% p.a. (for availing the facility of payment of the premium in installments). In case of default in payment of installment(s) interest @ 15% per annum compounded every half yearly, would be chargeable on the installment amount for the period of delay of each installment."*

61. Under clause 1(B) of the Lease Deed, the Respondent Authority is entitled to levy interest (including penal interest) in case of default in payment of EDC. The clause 1 (B) provides as under:

37 Act, 2019

"The external development charges @ Rs. 574/- (Rupees Five Hundred Seventy Four only) per square meter to be paid in 20 equal half yearly installment along with interest on reducing balance at an interest rate of 12% or SBI PLR whichever is higher as per the Schedule prescribed hereafter and in case of default in payment of any installment further interest @15% or 3% above the SBI PLR which ever is higher, shall be charges on the amount for the defaulted period."

62. Learned Senior Counsel appearing for YEIDA, in support of his submissions, has placed reliance on the definition of 'unjust enrichment' given in American Jurisprudence, Second Edition, Volume 66, which is reproduced as under:-

"3. Unjust enrichment.

The phrase "unjust enrichment is used in law to characterize the result or effect of a failure to make restitution of, or for, property or benches result or ender such circumstances as to give rise to a legal or equitable obligation to account therefor. It is a general principle, underlying various legal doctrin and remedies, that one person should not be permitted unjustly to enrich himself at the expense of another, but should be required to make restitution of or for property or benefits received, retained, or appropriated, where it is just and equitable that such restitution be made, and where such action involves no violation or frustration of law or opposition to public policy, either directly or indirectly.

Unjust enrichment is basic to the subject of restitution, and is indeed approached as a fundamental principle thereof. They are usually linked together, and restitution is frequently based upon the theory of unjust enrichment. 26 However, although unjust enrichment is often referred to or regarded as a ground for restitution, it is perhaps more accurate to regard it as a prerequisite, for usually there can be no restitution without unjust enrichment. 28 It is defined as the unjust retention of a benefit to the loss of another, or the retention of money or property of another against the fundamental principles of justice or equity and good conscience. A person is enriched if he has received a benefit, and he is unjustly enriched if retention of the benefit would be unjust. 30 Unjust enrichment of a person occurs when he has and retains money or benefits which in justice and equity belong to another.31

> *Generally, quasi-contractual liability for unjust enrichment is based upon the ground that a person received a benefit which it is unjust for him to retain ought to make restitution or pay the value of the benefit to the party entitled thereto. Recovery in an action of unjust enrichment depends upon whether, by the receipt of the funds in controversy, the defendant was enriched at the loss and expense of the plaintiff. A right of recovery under the doctrine of unjust enrichment is essentially equitable, its basis being that in a given situation it is contrary to equity and good conscience for one to retain a benefit which has come to him at the expense of another. A person who has been unjustly enriched at the expense of another is required to make restitution to the other.*
>
> *While the most prevalent implied contract recognized under the doctrine of unjust enrichment is predicated upon a relationship between the parties from which the court infers an intent, the doctrine also recognizes an obligation imposed by law regardless of the intent of the parties, where good conscience dictates that under the circumstances the person benefited should make reimbursement. 30 Unjust enrichment arises not only where an expenditure by one person adds to the property of another, but also where the expenditure saves the other from expense or loss.37*
>
> *One is not unjustly enriched, however, by retaining benefits involuntarily acquired which law and equity give him absolutely without any obligation on his part to make restitution. No person is unjustly enriched unless the retention of the benefit would be unjust."*

63. He has also placed reliance on American Jurisprudence Second Edition Volume 45, wherein it is provided that in the absence of a contract to the contrary, interest on money generally runs from the time that it becomes due and payable. (Ref. **Smyth v. U.S**.[38]). It is also provided that when a contract term is ambiguous as to when an amount is due, the court looks to the rest of the contract to determine the date, and interest will run from that date. (Ref.**Bangley Const. Development & Engineering Inc. v. All Phase Elec. & Maintenance, Inc**.[39].

64. Learned Senior Counsel for YEIDA submits that in the present matter penal interest was mentioned in the first demand letter of the

38 302 U.S. 329

39 562 So. 2d 800

year 2014 and the interest was also shown while raising the second demand notice. Therefore, it is not in dispute that the interest and penal interest were mentioned. In this regard, he has placed reliance on the averments contained in the counter affidavit filed by YEIDA. He submitted that the State fulfills its responsibility by upholding the 'public conscience' by implementing initiative intended for public purposes specially for providing additional compensation of 64.7% additional compensation in view of the judgment in Gajraj (Supra). In support of his submissions, he has placed relinace in **Arnold Rodricks v. State of Maharashtra**[40] and **State of Bombay v. BhanjiMunji**[41].

65. It is also contended that in the judgment dated May 19, 2022 in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra), Hon'ble Supreme Court has, after detailed scrutiny and examination, held that the decision of the Respondent Authority to pay the additional compensation to the farmers whose lands have been acquired, was in public interest since its objective was to quell the farmers' agitation and prevent disruption in the development activity on that account.

66. While filing the counter affidavit, YEIDA has taken a precise objection that in view of the judgment passed by the Supreme Court in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra), the petitioner's objection regarding additional compensation, interest and penal interest demanded by YEIDA has finally been settled and cannot be reagitated in the subsequent proceeding. Therefore, additional compensation qua quantum of proportionality is no more res integra. An objection is being taken that the additional compensation is infact demand of land premium and levy of interest (including penal interest) in case of default of land premium. For ready reference, paragraphs 22 to 34 of the counter affidavit filed by YEIDA in Writ Petition No.2674 of 2023 are reproduced as under:-

40 1966 SCC OnLine SC 62 (paragraphs 17, 18, 19, 20, 32, 33 & 38)

41 (1954) 2 SCC 386 (paragraph 13)

"Levy of interest (including penal interest) in case of default of land premium

22. Under Clause 1(A) of the Lease Deed, the Respondent Authority is entitled to levy interest (including penal interest) in case of default in payment of land premium. The clause 1(A) provides as under:

"(A) the premium of Rs- 32,02,18875/- (Rupees Thirty two crore two lacs eighteen thousand eight hundred seventy five only) out of which an amount equivalent to 10% of the total premium of plot has been paid by the Lessee as reservation money and the lesser hereby acknowledges the receipt thereof, and balance amount of 90% to be paid by the lessee in installments as indicated below along with interest @ 12% p.a. (for availing the facility of payment of the premium in installments). In case of default in payment of installment(s) interest @ 15% per annum compounded every half yearly would be chargeable on the installment amount for the period of delay of each installment."

Levy of Interest (including penal interest) on EDC

23. Under clause 1(B) of the Lease Deed, the Respondent Authority is entitled to levy interest (including penal interest) in case of default in payment of EDC. The clause 1(B) provides as under:

"(B) The external development charges Rs 574/- (Five hundred seventy four only) per square meter to be paid in 20 equal installments along with interest reducing balance at an Interest rate of 12% or SBI PLR whichever is higher as per the Schedule prescribed hereafter and incase of default in payment of any Installment further above the SBI PLR which ever is higher, shall be charged on the defaulted period."

Payment of Additional Compensation and Levy of Interest (including penal interest) on delayed payment of additional compensation

24. Without prejudice to the above, the Respondent Authority submits that in the Shakuntla judgment, the Hon'ble Supreme Court, having undertaken a thorough and meticulous review, has conclusively determined that the Respondent Authority's decision to disburse additional compensation to the farmers whose lands have been subject to acquisition was found to be in the interest of the public at large. This decision was made with the primary objective of quelling the farmers' agitation and averting any disruption in the ongoing development activities. In this respect, the Hon'ble Supreme Court held as follows:

"55. If we apply the principle as laid down in the case of Kasinka Trad Trading (supra) to the facts of the present case, it will be clear that the policy decision of the State Government was not only in the larger public interest but also in the interest of the respondents. The projects were stalled on account of the farmers' agitation. The farmers felt discriminated as they found that the compensation paid to them was much lesser than the one being paid to the equally circumstanced farmers in NOIDA and Greater NOIDA. It was the allottees of the land who had approached the State Government for redressal of the problem. In these circumstances, the Government took cognizance of the problem and appointed the Commissioner recommended appointment of High- Level Committee, the Chaudhary Committee was appointed. The Chaudhary Committee had threadbare discussions with all the stakeholders. It also took into consideration that on account of stay orders passed by the High Court in various writ petitions, the development of the project was stalled. On account of pendency of the writ petitions, there was always a hanging sword over the entire acquisition of it being declared unlawful. In this premise in order to find out a workable solution and that too, on the basis of the law laid down by the High Court in the case of Gajraj (supra) as affirmed by this Court in the case of Savitri Devi (supra) and followed by this Court in the case of Savitri Mohan (Dead) (supra), recommendations were made by the Chaudhary Committee. The Chaudhary Committee specifically recommended that the additional compensation and other incentives would be paid only if the landowners agree to handover physical possession of the land to YEIDA and withdraw all the litigations.

56. It could thus be seen that the recommendations, which were accepted by the State Government and formulated in the policy, were made taking into consideration the interests of all the stakeholders. As held by this Court, it is not only the interest of a small section of the allottees, which should weigh with the Government, but the Government should also give due weightage to the interest of the large section of farmers, whose lands were acquired."

25. In order to redress the grievances of the farmers and forestall any hindrance to the progress of development activities, the Respondent Authority found it necessary to disburse the additional compensation prior to receiving the due amounts from the respective allottees. It is imperative to note that the Respondent Authority operates as a self- financing entity. Consequently, to secure the

financial means for disbursing the additional compensation, it had to procure loans from established lending institutions.

26. Pursuant to the G.O., the total amount payable to the original landowners as additional compensation is Rs. 5245 crores. Out of the said amount, the Respondent Authority has already paid Rs.3436.18 crores (approximately) to the original landowners, and a sum of Rs. 1808.87 crores (approximately) are still payable.

27. It is further submitted that the Respondent Authority had raised a demand for Rs. 4562.60 crores from its allottees out of which a sum of Rs.1712.62 crores (approximately) have been deposited by several allottees. A balance sum of Rs. 2849.98 crore (approximately) is still outstanding.

28. The Respondent Authority issued another Demand Notice i.e., the Impugned Demand Notice to the Petitioner seeking to realize the amount of INR 53.26 crore, on account of default in payment of additional compensation (No- Litigation Incentive). The Petitioner, however, failed to comply with the Demand Notice and did not pay the amount demanded on account of additional compensation.

29. As mentioned above, the Respondent Authority has diligently proceeded with the disbursement of additional compensation to the farmers, a measure that has necessitated securing bank loans in order to fund this process. In doing so, the Respondent Authority is also incurring interest expenses on these loans.

30. Conversely, the Petitioner has consistently failed to fulfill its financial obligations concerning the additional compensation, despite the fact that the Hon'ble Supreme Court has unequivocally validated the demand stipulated in the Impugned Demand Notice, deeming it legitimate and in the best interest of the public. Further, the Petitioner has failed to make timely payments of the sums owed pursuant to clauses 1(A), 1(B) and 1(C) of the Lease Deed.

31. In these circumstances, it is only just and equitable that the Respondent Authority's demand for interest (including penal interest) on the delayed payments be upheld, more so because Respondent Authority is a public authority engaged in public service and not in private enterprise driven by profit.

Rate of Interest leviable on delayed payment

> *32. As is apparent from the Lease Deed, for the delay and default in payment of land premium (including the balance amount) the Respondent Authority has levied interest rate stipulated in clause 1(A) of the Lease Deed and the Petitioner is not entitled to dispute such rate.*
>
> *33. Similarly, for the delay and default in payment of EDC, the Respondent Authority has levied interest at the rate stipulated in clause 1(B) which too the Petitioner is not entitled to dispute.*
>
> *34. The Respondent Authority has levied the same interest rate for both the delay and default in payment of additional compensation, as stipulated in the Demand Notice, and for the delay in payment of EDC in accordance with clause 1(B). It is submitted that application of the same rate is rational and reasonable as explained in the following paragraph."*

67. Learned Senior Counsel appearing for YEIDA also submitted that the principles of Order II Rule 2 & Section 11 Explanation IV of the Civil Procedure Code, 1908 are applicable to the writ proceedings. The abandonment of a relief and re-agitation in a fresh petition is a clear abuse of the process of court. (Ref.**Forward Constructions Co. v. Prabhat Mandal (Regd.)[42], Direct Recruit Class II Engg. Officers' Assn. v. State of Maharashtra[43]** and S**arguja Transport Service v. S.T.A.T.[44]**)

68. He further submitted that Art.144 of the Constitution of India is applicable in the matter and the writ jurisdiction cannot be invoked by a party not complying with Art.144 of the Constitution. (Ref. **Kantaru Rajeevaru (Sabarimala Temple Review-5 J.) v. Indian Young Lawyers Assn.[45], Spencer & Co. Ltd. v. Vishwadarshan Distributors (P) Ltd.[46]** and **State of Tamil Nadu v. State of Karnataka & Ors.**[47])

42 (1986) 1 Scc 100 (para 20)

43 (1990) 2 SCC 715 (Constitution Bench) (Para 35 & 47)

44 (1987) 1 SCC 5 (paras 7 and 9)

45 (2020) 2 SCC 1 (para 43, 50 & 52)

46 (1995) 1 SCC 259 (paras 9 & 10)

47 (2016) 10 SCC 617 (paras 74 & 75)

REJOINDER ARGUMENTS ON BEHALF OF THE PETITIONER

69. Shri Sunil Gupta, learned Senior Counsel appearing for the petitioner, in rejoinder, has vehemently submitted that by no stretch of imagination the G.O. in question as well as Board Resolution in question could be placed in the category of 'law' and if it is 'law', it is so only for the limited context of Art.13 (3) of the Constitution of India namely to prevent any infringement of citizens' fundamental rights under Part III of the Constitution of India. Ref. **Union of India v. Colonel L.S.N. Murthy and Anr.[48]; Pharmacy Council of India v. Rajeev College[49]; Bijoe Emmanuel v. State of Karala[50]** and **Union of India v. Naveen Jindal[51].**

70. He has also submitted that the private educational institutions are important and are charitable institutions. Ref.**Unni Krishnan, J.P. State of U.P.[52]** and T.M.A. Pai Foundation v. State of Karnataka (Supra). He submitted that the liability, rate, period etc. of interest had not been disclosed in G.O. in question, Board Resolution in question and YEIDA demand notice in 2014. First time the same has been disclosed in the counter affidavit of YEIDA dated 17.02.2023. Therefore, the said facts does not constitute any part of cause of action regarding the main demand of 64.7% additional compensation nor the petitioner was entitled to make any claim in respect of any such cause of action as regards interest in its earlier writ petition.

71. He submits that the judgment relied upon by YEIDA in **South Eastern Coal Fields v. State of M.P.[53]** is distinguishable from the present dispute as the said case involved liability to pay interest of mining lease.

48 (2012) 1 SCC 718

49 (2023) 3 SCC 502

50 (1986) 3 SCC 615

51 (2004) 2 SCC 510

52 (1993) 1 SCC 645

53 (2003) 8 SCC 648

ANALYSIS BY THE COURT

72. Present writ petition is preferred against the demand of Rs.33.04 crores alleged and described as “No Litigation Incentive/ 64.7% Additional Compensation” in the impugned letter dated 20.09.2022 (consequential demand notice). It appears that some other demands have also been mentioned by YEIDA in the same letter, namely, Differential Amount @ Rs.1041/- per sq. m. and External Development Charges (EDC).

73. The petitioner has also challenged the orders dated 01.08.2022 and 02.08.2022 raising demand of differential amount by way of preferring Writ Petition No.24184 of 2022 in which interim order was accorded on 21.11.2022 keeping the demand of differential amount under the orders dated 01.08.2022 and 02.08.2022 in abeyance and directing the respondents to file counter affidavit. The said writ petition is stated to be still pending consideration. The petitioner had also challenged the demand dated 09.02.2018 for EDC in O.S. No.145 of 2018 before the Civil Court, Gautam Budh Nagar in which an injunction order dated 29.03.2019 has been passed for maintaining status quo as regards adverse action of cancellation of lease deed etc. against the petitioner. Against the said injunction order, the YEIDA has filed FAFO No.1635 of 2021, which is pending consideration in the High Court and there is no interim order in it.

74. In the present matter, after the judgment of Hon’ble Supreme Court in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra), non-payment of additional compensation is wholly attributable to the default on the part of the petitioner. The first demand notice was given to the petitioner in the year 2014 and first time he had challenged the same when another demand notice was given to him in the year 2018, which was questioned before the High Court in the year 2018. Initially the petitioner got interim order but finally the Division Bench had allowed the writ petition vide judgment and order dated 28.05.2020 holding that

the decision of Gajraj (Supra) as approved by the Supreme Court in the case of Savitri Devi (Supra) was not a judgment in rem and could not have been applied to the proceeding for acquiring the land under different notifications for YEIDA. It was observed that the G.O. in question as well as Resolution in question were violative of the provisions of Land Acquisition Act and the policy of the State Government was unfair, unreasonable, arbitrary and in violation of the provisions of Transfer of Property Act.

75. The said judgment of the Division Bench of this Court was challenged by YEIDA before the Supreme Court by way of filing SLPs. The main contention of YEIDA before the Supreme Court was to the effect that the G.O. in question was a policy decision of the State Government, taken in public interest. The said policy decision was taken after taking into consideration the farmers' agitation, the report of Chaudhary Committee and other relevant factors. The main thrust was in order to avoid acquisition from being declared illegal, the said policy was formulated and carved out on the basis of judgment of this Court in Gajraj (Supra), which was approved by the Supreme Court in Savitri Devi (Supra). Reliance was also placed before the Supreme Court in the case of Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra) that the said policy was in consonance with the decision of the Supreme Court in the case of **Centre for Public Interest Litigation v. Union of India**[54]**,** wherein it is held that it is obligatory on the State to ensure that people are adequately compensated for the transfer of resource to the private domain. Reliance was also placed on the judgment in **Narmada Bachao Andolan v. Union of India**[55] and it was pressed by YEIDA before the Supreme Court that the policy of the State Government was formulated by looking at the welfare of the people at large rather than restricting the benefit to a small section of the society. In the light of above judgments of the Supreme Court, it can be safely concluded that

54 (2012) 3 SCC 1

55 (2000) 10 SCC 664

when the change in the policy of the State is in public interest, it will override all private agreements entered into by the State.

76. For deciding the controversy, it would be appropriate to have a glance on the relevant grounds, which were taken by YEIDA in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra), which is as under:-

> *"…….20. We have heard Shri C.A. Sundaram, Shri C.U. Singh and Shri Maninder Singh, learned Senior Counsel appearing on behalf of YEIDA, Shri Vinod Diwakar, learned Additional Advocate General appearing on behalf of the State of Uttar Pradesh, Shri Rakesh U. Upadhyay and Dr. Surat Singh, learned counsel appearing on behalf of the farmers whose lands were acquired, Shri Nakul Dewan, Shri Sunil Gupta, Shri Ravindra Srivastava and Shri Sanjiv Sen, learned Senior Counsel appearing on behalf of the respondentsoriginal allottees of land.*
>
> *21. The main contention of the appellants in the present appeals is that the said G.O. was a policy decision of the State Government, taken in public interest. It is submitted that the said policy decision was taken after taking into consideration the farmers' agitation, the report of the Chaudhary Committee and all other relevant factors. It is submitted that in order to avoid acquisitions from being declared illegal, the Cabinet of Ministers of the State Government had taken a considered decision to adopt a formula, which was carved out by the judgment of the Full Bench of the Allahabad High Court in the case of Gajraj (supra) and approved by this Court in the case of Savitri Devi (supra).*
>
> *22. It is also the contention on behalf of the appellants that the policy of the State Government was in consonance with the decision of this Court in the case of Centre for Public Interest Litigation and others vs. Union of India and others 3, wherein this Court has held that it is obligatory on the State to ensure that people are adequately compensated for the transfer of resource to the private domain. Relying on the judgment of this Court in the case of Narmada Bachao Andolan vs. Union of India and others4, it is submitted that the policy of the State Government was formulated by looking at the welfare of the people at large rather than restricting the benefit to a small section of the society. Relying on various judgments of this Court, it is submitted that when the change in the*

policy of the State is in public interest, it will override all private agreements entered into by the State.

23. It is further submitted on behalf of the appellants that, as a matter of fact, on account of agitation of the farmers, development could not take place in the concerned area. It is submitted that various plot owners had approached the State Government and its authorities for finding out a solution to these problems, so that the development could proceed further. It is submitted that the proceedings of the Chaudhary Committee would itself reveal that all the stakeholders including the representatives of allottees were heard by the Chaudhary Committee. Not only that, but various allottees had, in writing, agreed that they are willing to pay the additional compensation so that the hindrance in the development is removed. It is therefore submitted that it does not lie in the mouth of the respondents to question the said G.O. and oppose the payment of additional compensation.

24. Relying on various judgments of this Court, it is further submitted on behalf of the appellants that the lease deed itself permitted additions, alterations or modifications in the terms and conditions of the lease. As such, even as per the lease deed, the appellants were entitled to modify or alter the terms and conditions of the lease. It is submitted that the word "modify" has to be used in a broader sense and not in a narrower sense.

25. Learned counsel for the appellants further submitted that the High Court fell in great error in holding that no writ petitions were pending. It is submitted that, as a matter of fact, more than 600 writ petitions were pending when the policy decision was taken by the State Government. It is submitted that the policy decision was taken so as to save the acquisition, which was otherwise liable to be quashed and set aside. It is submitted that it is, in fact, the respondents, who are the beneficiaries of the said measure and as such, having taken benefit of the said measure, they cannot be permitted to refuse to pay the additional compensation.

26. It is also submitted on behalf of the appellants that the allotees had an option, either to make additional payment or to take refund with interest. Having opted not to seek refund with interest, it does not lie in the mouth of the respondents to refuse to pay the additional compensation.

27. It is also submitted on behalf of appellantYEIDA that it had specifically submitted that stay orders passed by the High Court were in force in most of the cases related to

residential plots, due to which the development work could not be completed.

28. Learned counsel appearing on behalf of the farmers also support the stand of YEIDA. It is submitted that the builders had already recovered additional compensation from the homebuyers. As such, the additional compensation was already passed on by the builders to the homebuyers. It is submitted that if the contention of the respondents is accepted, it will amount to nothing else but allowing of unjust enrichment.

29. It is further submitted that the respondents were not entitled to the discretionary relief under Article 226 of the Constitution of India. The writ petitions filed by them before the Allahabad High Court were filed without impleading the farmers who were necessary parties as respondents to the writ petitions……."

77. The Supreme Court in the said judgment had also considered the objections of the respondents (petitioner herein), which were summarized in para 30, reproduced as under:-

"…….30. Elaborate arguments have been advanced on behalf of the respondents. To summarize, they are as under:

(i) The respondents had not given any undertaking to pay additional compensation, as stated;

(ii) The term "modification/addition" with regard to payment was restricted only to any clerical or technical error;

(iii) The High Court has rightly held that Gajraj (supra) and Savitri Devi (supra) applied only to the peculiar facts and circumstances of those cases. In the case of Gajraj (supra), the High Court had done elaborate exercise of categorizing the cases into three types. In any case, it is submitted that the State itself was aggrieved by the decision in Gajraj (supra), which has been challenged by it before this Court;

(iv) In the present case, many of the acquisitions were by private negotiations and as such, there is no question of applicability of either Section 17 or Section 5A of the L.A. Act;

(v) There were concluded contracts entered between the allottees and YEIDA. As such, it was not open for YEIDA to unilaterally change the terms and conditions of the contract and enhance the lease premium;

(vi) The High Court has rightly held that the socalled policy of the State Government was arbitrary, irrational and therefore not sustainable in law;

(vii) On behalf of the respondent No.19Supertech Limited, an additional submission was made that the appropriate authority has already passed an order admitting the petition filed under Section 7 of the Insolvency and Bankruptcy Code, 2016;

(viii) On behalf of the individual plot owners, it is submitted that the said plot owners, who belong to the middle class section of the society cannot be burdened with the additional amount.

(ix) The respondents also placed reliance on the judgment of this Court in the case of ITC Limited vs. State of Uttar Pradesh and others5 to support the proposition that concluded contracts cannot be interfered with or reopened……."

78. In Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra), the Supreme Court had also considered the policy decision of the State Government formulated in the G.O. in question, as under:-

"…….42. After the decision of this Court in the cases of Gajraj (supra) and Savitri Devi (supra), 64.7% additional compensation and 10% of the land acquired of each of the land owners, instead of 5% and 6% was made available to the farmers whose lands were acquired for the benefit of NOIDA as well as Greater NOIDA. The lands acquired for the benefit of YEIDA were also for the development of adjoining areas. Feeling discriminated that they were being paid compensation at much lesser rate as compared to the farmers whose lands were acquired for NOIDA and Greater NOIDA, various farmers' organizations started agitations. It is some of the allottees who made representations to the CEO of YEIDA. One of such representations was made by the respondent No.19Supertech Private Limited to the CEO of YEIDA on 22nd November, 2013, stating therein that on account of agitation by the Bhartiya Kisan Union, they had to stop their work with effect from 20 th November, 2013. The said letter/representation stated that that the main grievance of the officeholders of the Bhartiya Kisan Union was that they want increased compensation and for compensating the same, the Authority wants money from the Builders. The said representation states that:

""the Authority is not resolving the problems of the Farmers. The main issue of farmers is that they want

increased compensation, and for compensating the same, the Authority wants money from the Builders. Builders are not ready to pay this amount, due to which, we are stopping the construction works of Builders." During the discussion, it was said by the Company that "We are not against the farmers or against their rights and company gives it's consent on this fact that whatever the consent would be made out between the Authority and Government on the compensation amount of farmers, that would be accepted by the company."

43. The said letter/representation categorically states that the Company was not against the farmers or against their rights and that it was willing to abide by whatever decision was arrived at between the Authority and the Government on the compensation amount of farmers.

44. Similar representations were made by Orris Greenbay Golf Village on the same day, by Sunworld City Pvt. Ltd. on 26 th November, 2013, and by Gaursons Realtech Pvt. Ltd. on 4 th December, 2013.

45. It could thus be seen that on account of farmers' resistance and their agitation, the development work of the projects was stalled. When this was brought to the notice of the State Government, the State Government nominated the Commissioner, Meerut Division, Meerut vide order dated 10 th April, 2013, for looking into the issue. The Commissioner after holding various meetings with the farmers' organization/representatives submitted his report on 16 th July, 2013, stating therein that the lands have been acquired by YEIDA at large scale and taking into consideration the nature of demands having wide implications, it was necessary that a HighLevel Committee at the State Government level for examining the demands of farmers be constituted. In this background, the State Government vide order dated 3 rd September, 2013 constituted a Committee under the Chairmanship of Shri Rajendra Chaudhary, Minister of Prison, State of Uttar Pradesh. The Divisional Commissioner of the concerned Division and the Collector of the concerned District were also the members of the Chaudhary Committee. The Chaudhary Committee was constituted for the purpose of resolving the problems of the villagers/farmers and the problems related to the industries. The Chaudhary Committee considered the following issues:

"a. Demands raised by the Farmers/ Farmers' Organizations/ Representatives and Memorandums/ Demand Letters produced by them and the favour put forth by them during the personal hearing.

b. Favour put forth by the Industrialists/ Builders/ Allottees during personal hearing.

c. Favour and opinion of Yamuna Expressway Authority."

46. The Chaudhary Committee conducted its proceedings on 30th September, 2013 with the representatives of the farmers. The said Committee thereafter held deliberations with the representatives of the allottees on 29 th October, 2013. It will be apposite to refer to the relevant part of the discussion that took place in the meeting held with the representatives of the allottees on 29th October,2013, which reads thus:

"2. It was informed by the representative of M/s. SDIL that due to the agitation of local farmers on the issues of their problems/demands, at present, we are not available to carry out any work on the spot, therefore, whatever the decision will be taken by the Committee/ Government for disposal of the problems of farmers, we will cooperate in the same.

3. It was informed by the representative of M/s. Supertech Pvt. Ltd. that the farmers are agitating in the entire area and they are interrupting the development work. It is necessary to solve the problems of farmers. It was also informed by him that he will cooperate in the decision to be taken by the Government/Committee for disposal of the problems.

4. It was informed by the representatives of M/s. Silverline and other Units/Institutions that due to interrupting their development works as a result of the demands being raised by the farmers of the area, the project cost is getting escalated. Due to solving the problems of farmers, the investment will be increased in the area and in disposal of the same, they will provide their assistance.

5. Regarding the demand of giving 10% abadi land in place of 7% abadi land to be given to the ancestral farmers, it was said by the representative of M/s. J.P. Infratech Pvt. Ltd. namely Sh. Sameer Gaur that earlier, they have been paid value of 7% abadi land and development charges, now, if any other cost is imposed, then, company is not in position to bear the same."

47. It could thus be seen that even the representatives of the allottees were of the opinion that on account of the agitation of the local farmers, the developers were not in a position to carry out any work on the spot. It was also impressed upon that on account of this, the cost of the project was getting escalated. As such, it was urged to solve the problem.

48. The Chaudhary Committee also considered the submissions made on behalf of the appellantYEIDA. It was submitted on behalf of the appellantYEIDA that on account

of the judgment delivered in a similar case, i.e., in the case of Gajraj (supra), the farmers, whose lands were acquired, were also demanding the compensation on similar lines.

49. After considering the rival submissions, the Chaudhary Committee gave its recommendation as under:

"Recommendation of Committee:

The opinion of Authority as well as the demands of the Farmers' Organizations were carefully considered by the Committee. In the common order passed in the different Writ Petitions filed by Noida and Greater Noida Authorities, the Hon'ble High Court by not finding the proceedings conducted under Section 17 of Land Acquisition Act, 1894 to be proper, had directed that the Authority shall pay 64.7% additional compensation to the farmers and return them 10% developed land. Also in the Yamuna Expressway Authority, around 700 Writ Petitions have been filed by the farmers by challenging the different notifications, wherein, stay orders have been passed in the most of the Petitions, the circumstances which were existing in the acquisition made by Noida and Greater Noida Authority, same circumstances are also existed in the most of the cases of acquisition of Yamuna Expressway. The lands acquired by the Authority, have been allotted to the different allottees for different projects, due to which, the third party rights have been created in this acquired land and if order is passed against the Authority in the Petitioners filed against the Acquisition Proceedings, then, many difficulties would arise. Therefore, keeping in view the legal expected legal complications, it is required to do the out of court settlement with the affected farmers. At the time of discussion, it was assured by the farmers' representatives that if the Government/ Authority agrees to give 64.7% additional compensation, then, the farmers will withdraw the Petitions filed in the Court. Therefore, Committee recommends that:

I .(a) If, all the farmers/ Petitioners of a village related to the land acquired/ purchased by the Yamuna Expressway Authority, withdraw their Petitions filed in the Hon'ble High Court or in any other Court and if they give written assurance for future that they will not file any claim against the Authority or it's allottees in any Court and will not cause any obstruction in the Development Works, then, like the Greater Noida Authority, the Authority may consider to give amount equivalent to 64.7% additional compensation in the form of No Litigation Incentive/ Additional Compensation, which may be compensated proportionally from the concerned allottees and same may also be imposed proportionally in the costing of allotment of land available with the Authority.

These benefits shall be allowed also to those farmers, whose' lands have been purchased by the Authority vide Sale Deed on mutual consent basis.

(b) The process of payment of additional compensation, be completed villagewise in accordance with the Schemes/ Priorities of Authority after obtaining physical possession of on the spot and after withdrawal of all the Writ petitions/ Cases of concerned village after doing settlement with the farmers. In view of the financial condition of Authority, if the payment of additional compensation is not possible in lumpsum, then, the consideration could also be made regarding payment in installments or in the form of developed land.

2. Regarding allotment of 10% developed land in place of 7% developed land, the proceedings be conducted according to the order of Appeal/SLP filed by the Noida/Greater Noida Authorities.

3. The proceedings of amendment proposed by the Authority in Abadi Rules, are at final stage of approval, the proceedings be conducted as per the decision of Government.

4. Regarding abolishing the distinction between ancestral and nonancestral, this decision has been taken in the 48th meeting dated 08.01.2014 of Yamuna Expressway Authority Board, that such land owners of the lands acquired or to be acquired/purchased by the Authority, whose' names have remained recorded in Six Yearly Register/ Khatauni on the acquired land prior to the date of establishment of Authority i.e. 24.04.2001, and the landowners are residents of any village related to any District lying within the notified area of Yamuna Expressway Authority, then, the benefit of 7% abadi land be granted to him against his acquired land. In the decision of Authority Board, this facility has also been allowed to the successors of eligible land owners, who fulfill the aforesaid conditions. The further proceedings be conducted as per the decision of Authority Board.

5. In view of the demands of farmers organizations and local public of District Mathura, after taking into consideration the proposal submitted by Concessionaire namely M/s. J.P. Infratech Ltd., in the 48th meeting dated 08.01.2014 of Yamuna Expressway Authority Board, a decision in principle has been taken for construction of Exist & Entry Ramps at BajnaNauhjheel Road at Yamuna Expressway and by making necessary amendments in DPR accordingly, a letter has been sent to the Concessionaire namely M/s. J,P. Infratech for necessary action. The further proceedings be conducted as per the decision of Authority Board.

It is recommended by the Committee that the aforementioned additional benefits be granted to the landowners only in that case when they will handover the physical possession of land to the Authority and withdraw Writ Petition/Case pending in Hon'ble High Court or any other Court and agreement for not causing any obstruction in future in the development works of allottees and for not filing any claim in any Court against the acquisition of land in future. Regarding the other demands, the Committee will give it's recommendation after further consideration."

50. It could thus be seen that the recommendations of the Chaudhary Committee were principally intended to resolve the issue between the farmers and the allottees, and to find out a workable solution to the problem. The Chaudhary Committee recommended similar treatment to be given to the farmers whose lands were acquired for YEIDA, as was given to the farmers whose lands were acquired for the benefit of NOIDA and Greater NOIDA. The Chaudhary Committee found that the same benefits as were given to the farmers whose lands were acquired for the benefit of NOIDA and Greater NOIDA in view of the judgment of the High Court in the case of Gajraj (supra), as affirmed by this Court in the case of Savitri Devi (supra) should also be given to the farmers whose lands were acquired for the benefit of YEIDA. However, this was made conditional. Additional benefit was granted to the landowners on the condition that they would handover the physical possession of land to YEIDA and withdraw the writ petitions/cases filed by them pending before the High Court.

51. The State Government vide the said G.O. gave effect to the recommendations of the Chaudhary Committee. YEIDA too, in its Board meeting dated 15 th September, 2014, resolved to implement the decision of the State Government. Accordingly, demand notices came to be issued to the allottees.

52. It could thus be seen that the policy decision of the State Government is preceded by various factors. Firstly, the farmers' agitation, after they were denied the benefits which were granted to the farmers whose lands were acquired for the benefit of NOIDA and Greater NOIDA; the report of the Commissioner, the appointment of the Chaudhary Committee, the deliberations of the Chaudhary Committee with various stakeholders, and thereafter the recommendations of the Chaudhary Committee.

53. It will be relevant to refer to the judgment of this Court in the case of the Kasinka Trading and another vs. Union of India and another7, wherein this Court has referred to various earlier pronouncements and the treatise of Prof. S.A.

de Smith on "Judicial Review of Administrative Action". The relevant paragraphs of the said judgment read thus:

"12. It has been settled by this Court that the doctrine of promissory estoppel is applicable against the Government also particularly where it is necessary to prevent fraud or manifest injustice. The doctrine, however, cannot be pressed into aid to compel the Government or the public authority "to carry out a representation or promise which is contrary to law or which was outside the authority or power of the officer of the Government or of the public authority to make". There is preponderance of judicial opinion that to invoke the doctrine of promissory estoppel clear, sound and positive foundation must be laid in the petition itself by the party invoking the doctrine and that bald expressions, without any supporting material, to the effect that the doctrine is attracted because the party invoking the doctrine has altered its position relying on the assurance of the Government would not be sufficient to press into aid the doctrine. In our opinion, the doctrine of promissory estoppel cannot be invoked in the abstract and the courts are bound to consider all aspects including the results sought to be achieved and the public good at large, because while considering the applicability of the doctrine, the courts have to do equity and the fundamental principles of equity must for ever be present to the mind of the court, while considering the applicability of the doctrine. The doctrine must yield when the equity so demands if it can be shown having regard to the facts and circumstances of the case that it would be inequitable to hold the Government or the public authority to its promise, assurance or representation.

13. The ambit, scope and amplitude of the doctrine of promissory estoppel has been evolved in this country over the last quarter of a century through successive decisions of this Court starting with Union of India v. IndoAfghan Agencies Ltd. [(1968) 2 SCR 366 : AIR 1968 SC 718] Reference in this connection may be made with advantage to Century Spg. & Mfg. Co.Ltd. v. Ulhasnagar Municipal Council [(1970) 1 SCC 582 : (1970) 3 SCR 854] ; Motilal Padampat Sugar Mills Co.Ltd. v. State of U.P. [(1979) 2 SCC 409 :1979 SCC (Tax) 144 : (1979) 2 SCR 641] ; Jit Ram Shiv Kumar v. State of Haryana [(1981) 1 SCC 11 : (1980) 3 SCR 689] ; Union of India v. Godfrey Philips India Ltd. [(1985) 4 SCC 369 : 1986 SCC (Tax) 11] ; Indian Express Newspapers (Bom) (P) Ltd. v. Union of India [(1985) 1 SCC 641 : 1985 SCC (Tax) 121] ; Pournami Oil Mills v. State of Kerala [1986 Supp SCC 728 : 1987 SCC (Tax) 134] ; Shri Bakul Oil Industries v. State of Gujarat [(1987) 1 SCC 31 : 1987 SCC (Tax) 74 : (1987) 1 SCR 185] ; Asstt. CCT v. Dharmendra Trading Co. [(1988)

3 SCC 570 : 1988 SCC (Tax) 432] ; Amrit Banaspati Co. Ltd. v. State of Punjab [(1992) 2 SCC 411] and Union of India v. Hindustan Development Corpn. [(1993) 3 SCC 499 : JT (1993) 3 SC 15] In Godfrey Philips India Ltd. [(1985) 4 SCC 369 : 1986 SCC (Tax) 11] this Court opined: (SCC p. 388, para 13)

"We may also point out that the doctrine of promissory estoppel being an equitable doctrine, it must yield when the equity so requires; if it can be shown by the Government or public authority that having regard to the facts as they have transpired, it would be inequitable to hold the Government or public authority to the promise or representation made by it, the Court would not raise an equity in favour of the person to whom the promise or representation is made and enforce the promise or representation against the Government or public authority. The doctrine of promissory estoppel would be displaced in such a case, because on the facts, equity would not require that the Government or public authority should be held bound by the promise or representation made by it."

14. In Excise Commissioner, U.P. v. Ram Kumar [(1976) 3 SCC 540 : 1976 SCC (Tax) 360 : AIR 1976 SC 2237] four learned Judges of this Court observed: (SCC p.545, para 19)

"The fact that sales of country liquor had been exempted from sales tax vide Notification No. ST1149/X802 (33)51 dated 641959 could not operate as an estoppel against the State Government and preclude it from subjecting the sales to tax if it felt impelled to do so in the interest of the revenues of the State which are required for execution of the plans designed to meet the ever increasing pressing needs of the developing society. It is now well settled by a catena of decisions that there can be no question of estoppel against the Government in the exercise of its legislative, sovereign or executive powers."

15. Prof. S.A. de Smith in his celebrated treatise Judicial Review of Administrative Action, 3rd Edn., at p. 279 sums up the position thus:

"Contracts and covenants entered into by the Crown are not to be construed as being subject to implied terms that would exclude the exercise of general discretionary powers for the public good. On the contrary they are to be construed as incorporating an implied term that such powers remain exercisable. This is broadly true of other public authorities also. But the status and functions of the Crown in this regard are of a higher order. The Crown cannot be allowed to tie its hands completely by prior undertakings is as clear as the

proposition that the Courts cannot allow the Crown to evade compliance with ostensibly binding obligations whenever it thinks fit. If a public authority lawfully repudiates or departs from the terms of a binding contract in order to have been bound in law by an ostensibly binding contract because the undertakings would improperly fetter its general discretionary powers the other party to the agreement has no right whatsoever to damages or compensation under the general law, no matter how serious the damages that party may have suffered."

54. It has been held by this Court that the doctrine of promissory estoppel cannot be invoked in the abstract and the courts are bound to consider all aspects including the results sought to be achieved and the public good at large. It has been held that while considering the applicability of the doctrine, the courts have to do equity and the fundamental principles of equity must for ever be present to the mind of the court, while considering the applicability of the doctrine. It has been held that the doctrine being an equitable doctrine, it must yield when the equity so requires, if it can be shown by the Government or Public Authority that having regard to the facts and circumstances as they have transpired, it would be inequitable to hold the Government or the Public Authority to the promise, assurance or representation made by it. The judgment of this Court in the case of Kasinka Trading (supra) has been consistently followed.

55. If we apply the principle as laid down in the case of Kasinka Trading (supra) to the facts of the present case, it will be clear that the policy decision of the State Government was not only in the larger public interest but also in the interest of the respondents. The projects were stalled on account of the farmers' agitation. The farmers felt discriminated as they found that the compensation paid to them was much lesser than the one being paid to the equally circumstanced farmers in NOIDA and Greater NOIDA. It was the allottees of the land who had approached the State Government for redressal of the problem. In these circumstances, the Government took cognizance of the problem and appointed the Commissioner to look into the issue. Since the Commissioner recommended appointment of a HighLevel Committee, the Chaudhary Committee was appointed. The Chaudhary Committee had threadbare discussions with all the stakeholders. It also took into consideration that on account of stay orders passed by the High Court in various writ petitions, the development of the project was stalled. On account of pendency of the writ petitions, there was always a hanging sword over the entire acquisition of it being declared unlawful. In this premise, in

order to find out a workable solution and that too, on the basis of the law laid down by the High Court in the case of Gajraj (supra) as affirmed by this Court in the case of Savitri Devi (supra) and followed by this Court in the case of Savitri Mohan (Dead) (supra), recommendations were made by the Chaudhary Committee. The Chaudhary Committee specifically recommended that the additional compensation and other incentives would be paid only if the landowners agree to handover physical possession of the land to YEIDA and withdraw all the litigations.

56. It could thus be seen that the recommendations, which were accepted by the State Government and formulated in the policy, were made taking into consideration the interests of all the stakeholders. As held by this Court, it is not only the interest of a small section of the allottees which should weigh with the Government, but the Government should also give due weightage to the interest of the large section of farmers, whose lands were acquired……."

79. Hon'ble Apex Court in the said judgment had also approved the policy decision of the State Government with categorical terms in following paragraphs:-

"……..57. We further find that the High Court fell in error in observing that no writ petitions were filed challenging the acquisition for YEIDA. The report of the Chaudhary Committee itself would clarify that YEIDA had itself submitted that insofar as the residential plots are concerned, there were stay orders operating in majority of the writ petitions due to which the development of the project work was stalled.

58. We are therefore of the considered view that the policy decision of the State Government was in the larger public interest. It was taken considering entire material collected by the Chaudhary Committee after due deliberations with all the stakeholders. The factors which were taken into consideration by the State Government were relevant, rational and founded on ground realities. In this view of the matter, the finding of the High Court that the policy decision of the State Government was arbitrary, irrational and unfair, is totally incorrect.

59. The law with regard to interference in the policy decision of the State is by now very well crystalized. This Court in the case of Essar Steel Limited vs Union of India and others8 had an occasion to consider the scope of interference in the policy decision of the State. After

referring to various decisions of this Court, the Court observed thus:

"43. Before we can examine the validity of the impugned policy decision dated 63 2007, it is crucial to understand the extent of the power vested with this Court to review policy decisions.

44. In DDA [DDA v. Allottee of SFS Flats, (2008) 2 SCC 672 : (2008) 1 SCC (Civ) 684] on issue of judicial review of policy decisions, the power of the Court is examined and observed as under: (SCC pp.69798, paras 6465)

"64. An executive order termed as a policy decision is not beyond the pale of judicial review. Whereas the superior courts may not interfere with the nitty gritty of the policy, or substitute one by the other but it will not be correct to contend that the court shall lay its judicial hands off, when a plea is raised that the impugned decision is a policy decision. Interference therewith on the part of the superior court would not be without jurisdiction as it is subject to judicial review.

65. Broadly, a policy decision is subject to judicial review on the following grounds:

(a) if it is unconstitutional;

(b) if it is dehors the provisions of the Act and the Regulations;

(c) if the delegatee has acted beyond its power of delegation;

(d) if the executive policy is contrary to the statutory or a larger policy."

45. Thus, we will test the impugned policy on the above grounds to determine whether it warrants our interference under Article 136 or not. Further, this Court neither has the jurisdiction nor the competence to judge the viability of such policy decisions of the Government in exercise of its appellate jurisdiction under Article 136 of the Constitution of India. In Arun Kumar Agrawal v. Union of India [Arun Kumar Agrawal v. Union of India, (2013) 7 SCC 1] , this Court has further held as under: (SCC p. 17, para 41)

"41. ... This Court sitting in the jurisdiction cannot sit in judgment over the commercial or business decision taken by parties to the agreement, after evaluating and assessing its monetary and financial implications, unless the decision is in clear violation of any statutory provisions or perverse or taken for extraneous considerations or improper motives. States and its instrumentalities can enter into various contracts which may involve complex economic factors. State or the State undertaking being a

party to a contract, have to make various decisions which they deem just and proper. There is always an element of risk in such decisions, ultimately it may turn out to be a correct decision or a wrong one. But if the decision is taken bona fide and in public interest, the mere fact that decision has ultimately proved to be wrong, that itself is not a ground to hold that the decision was mala fide or taken with ulterior motives." (emphasis supplied)

46. In Villianur Iyarkkai Padukappu Maiyam v. Union of India [Villianur Iyarkkai Padukappu Maiyam v. Union of India, (2009) 7 SCC 561] , it was held as under: (SCC p. 605, para 169)

"169. It is neither within the domain of the courts nor the scope of judicial review to embark upon an enquiry as to whether a particular public policy is wise or whether better public policy can be evolved. Nor are the courts inclined to strike down a policy at the behest of a petitioner merely because it has been urged that a different policy would have been fairer or wiser or more scientific or more logical. Wisdom and advisability of economic policy are ordinarily not amenable to judicial review. In matters relating to economic issues the Government has, while taking a decision, right to "trial and error" as long as both trial and error are bona fide and within the limits of the authority. For testing the correctness of a policy, the appropriate forum is Parliament and not the courts." (emphasis supplied)

47. A threeJudge Bench of this Court in Narmada Bachao Andolan v. Union of India [Narmada Bachao Andolan v. Union of India, (2000) 10 SCC 664] cautioned against courts sitting in appeal against policy decisions. It was held as under:(SCC p. 763, para 234)

"234. In respect of public projects and policies which are initiated by the Government the courts should not become an approval authority. Normally such decisions are taken by the Government after due care and consideration. In a democracy welfare of the people at large, and not merely of a small section of the society, has to be the concern of a responsible Government. If a considered policy decision has been taken, which is not in conflict with any law or is not mala fide, it will not be in public interest to require the court to go into and investigate those areas which are the function of the executive. For any project which is approved after due deliberation the court should refrain from being asked to review the decision just because a petitioner in filing a PIL alleges that such a decision should not have been taken because an opposite view against the undertaking of the project, which view may

have been considered by the Government, is possible. When two or more options or views are possible and after considering them the Government takes a policy decision it is then not the function of the court to go into the matter afresh and, in a way, sit in appeal over such a policy decision." (emphasis supplied)

48. A similar sentiment was echoed by a Constitution Bench of this Court in Peerless General Finance & Investment Co. Ltd. v. RBI [Peerless General Finance & Investment Co. Ltd. v. RBI, (1992) 2 SCC 343] , wherein it was observed as under:(SCC p. 375, para 31)

"31. ... Courts are not to interfere with economic policy which is the function of experts. It is not the function of the courts to sit in judgment over matters of economic policy and it must necessarily be left to the expert bodies. In such matters even experts can seriously and doubtlessly differ. Courts cannot be expected to decide them without even the aid of experts."

49. A perusal of the abovementioned judgments of this Court would show that this Court should exercise great caution and restraint when confronted with matters related to the policy regarding commercial matters of the country. Executive policies are usually enacted after much deliberation by the Government. Therefore, it would not be appropriate for this Court to question the wisdom of the same, unless it is demonstrated by the aggrieved persons that the said policy has been enacted in an arbitrary, unreasonable or mala fide manner, or that it offends the provisions of the Constitution of India."

60. It is trite law that an interference with the policy decision would not be warranted unless it is found that the policy decision is palpably arbitrary, mala fide, irrational or violative of the statutory provisions. We are therefore of the considered view that the High Court was also not right in interfering with the policy decision of the State Government, which is in the larger public interest.

61. It will also be apposite to refer to the following observations of this Court in the case of APM Terminals B.V. vs. Union of India and another9:

"67. It has been the consistent view of this Court that a change in policy by the Government can have an overriding effect over private treaties between the Government and a private party, if the same was in the general public interest and provided such change in policy was guided by reason. Several decisions have been cited by the parties in this regard in the context of preventing private monopolisation of port activities to an extent where

such private player would assume a dominant position which would enable them to control not only the berthing of ships but the tariff for use of the port facilities."

62. It could thus be seen that it is more than settled that a change in policy by the Government can have an overriding effect over private treaties between the Government and a 9 (2011) 6 SCC 756 private party, if the same was in the general public interest. The additional requirement is that such change in policy is required to be guided by reason.

63. Insofar as the reliance placed by the respondents on the judgment of this Court in the case of ITC Limited (supra) is concerned, in our considered view, the said judgment would not be of any assistance to the case of the respondents. This Court in the said case in paragraph 107.1 has clearly observed that in the case of conflict between public interest and personal interest, public interest should prevail.

64. A number of judgments of this Court have been cited at the Bar by the respondents in support of the proposition that in view of concluded contracts, it was not permissible for the appellants to unilaterally increase the premium by framing a policy.

65. We have hereinabove elaborately discussed that when a policy is changed by the State, which is in the general public interest, such policy would prevail over the individual rights/interests. In that view of the matter, we do not find it necessary to refer to the said judgments. The policy of the State Government as reflected in the said G.O. was not only in the larger public interest but also in the interest of the respondents.

66. We further find that the respondents have indulged into the conduct of approbate and reprobate. They have changed their stance as per their convenience. When their projects were stalled on account of the farmers' agitation, it is they who approached the State Authorities for finding out a solution. When the State Government responded to their representations and came up with a policy which was equitable and in the interest of both, the farmers and the allottees and when the said policy paved the way for development, when called upon to pay the additional compensation, the respondentsallottees somersaulted and challenged the very same policy before the High Court, which benefitted them. We have already hereinabove made reference to the various communications made by the allottees of the land for intervention of the State Government.

67. Insofar as the individual plot owners are concerned, it will be worthwhile to mention that the residential plot owners in Sectors 18 and 20 of Yamuna Expressway city have formed an association, viz., Yamuna Expressway ResidentialPlotOwners Welfare Association (hereinafter referred to as "the YERWA"). The communication addressed by the president of the YERWA to the CEO of YEIDA would reveal that 98.5% of the allottees/owners have voted in favour of paying the additional premium demanded by the Authority. The only request made by the YERWA is with regard to making a provision for paying additional premium in installments.

68. It can thus be seen that even insofar as the individual residential plot owners are concerned, more than 98% of the plot owners do not have any objection to the payment of the additional compensation.

69. With respect to the contention of the respondent No.19 Supertech with regard to initiation of CIRP, we are not concerned with the said issue in the present proceedings. The law will take its own course.

70. In conclusion, we are of the considered view that the policy decision of the State Government as reflected in the said G.O. dated 29th August, 2014 and the Resolution of the Board of YEIDA dated 15th September, 2014 were in the larger public interest, taking care of the concerns of the allottees as well as the farmers. As already discussed hereinabove, had the said decision not been taken, there was a hanging sword of the acquisition being declared unlawful. The development of the entire project was stalled on account of farmers' agitation. Before taking the policy decision, the State Government, through the Chaudhary Committee, had done a wide range of deliberations with all the stakeholders including the allottees, farmers and YEIDA. The policy decision was taken after taking into consideration all relevant factors and was guided by reasons. In any case, it is a settled position of law that in case of a conflict between public interest and personal interest, public interest will outweigh the personal interest. The High Court was therefore not justified in holding that the policy decision of the State was unfair, unreasonable and arbitrary. We are of the considered view that the High Court has erred in allowing the writ petitions. The present appeals, therefore, deserve to be allowed.

71. In the result, we pass the following order:

(i) The appeals are allowed;

(ii) The impugned judgment and order dated 28 th May, 2020, passed by the Allahabad High Court in Writ Petition

No. 28968 of 2018 and companion matters is quashed and set aside;

(iii) The writ petitions filed by the respondents covered by the impugned judgment and order dated 28th May, 2020 passed by the Allahabad High Court are dismissed;

72. Applications for Intervention are allowed. Pending applications, including the applications for directions, shall stand disposed of in the above terms. There shall be no order as to costs."

80. We find that as an instrumentality of the State, YEIDA is legally bound to implement the directives of the Supreme Court in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra), once the same serve a public duty by ensuring the equitable distribution of additional compensation among affected farmers. This legal framework mandates YEIDA's compliance to uphold social justice and public interest, reinforcing the status of G.O. in question as lawful enactment in the pursuit of its statutory obligations. We also find that the petitioner's attempt to contest the additional compensation and the associated levy of interest through repeated litigation is to be seen in the light of these constitutional provisions. Moreover, once the Supreme Court had validated the Government Order in question as well as the Board Resolution in question, therefore, the duty is cast upon YEIDA to enforce the Government Order in question as well as Board Resolution in question in its entirety. Pick and choose policy cannot be adopted by YEIDA. In the present mater, the G.O. in question as well as Board Resolution in question are not only lawful but also essential qua equitable and efficient administration of public policy. Once the additional compensation has decisively been settled by the Supreme Court in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra) and the Board Resolution in question does contain a provision for payment of interest, particularly in view of G.O., which entitles YEIDA to levy not only interest but the penal interest upon the allottees, the same were also

reflected from all the three demand notices, the same has binding effect to be enforced by YEIDA in the pursuit of its statutory obligations.

81. After going through the first demand notice, we find that it clearly provides in categorical terms that the amount of additional compensation was demanded in the light of G.O. in question, which was issued qua the farmers affected by land acquisition in the form of no litigation incentive/ additional compensation, which shall be compensated from the concerned allottees in proportionate manner. It talks about 51st Board Meeting of Authority, wherein it has been decided to realize Rs.600/- per sq. mtr. as additional dues other than rate of allotment for compensating the burden of extra compensation on the plots allotted under the Mini SEZ (25 to 250 acres) Scheme. In terms of the aforesaid notice, the extra compensation installment was due w.e.f. 16.03.2015. The same had commenced after three months of notice and the same was to be paid in four half yearly installments without any interest or penal interest. While demanding the extra compensation installments, request was also made to ensure to deposit due demand of the extra compensation on the prescribed date in the prescribed bank, otherwise in case of default, the penal interest will be imposed.

82. Therefore, at this stage, it can be safely said that while giving first demand notice the Authority had relied upon the G.O. in question as well as resolution of 51st Board meeting of the Authority and provided that in case of default penal interest will be levied. Surprisingly, last and fourth installment had to be paid on or before 13.09.2016 but there is nothing on record to show that the petitioner had made any endeavor to pay the installments in time though the same was without interest towards extra compensation of 64.7% and even though the Supreme Court had already approved the judgment of Gajraj (Supra) in Savitri Devi (Supra) on the basis of considering the ground realities of the matter and arrived at more practical and workable solution.

83. In the subsequent notice dated 20.08.2018 the YEIDA has reiterated the demand of additional compensation along with interest.

The petitioner had challenged the demand notices and the Board resolution in question in writ proceeding in which initially an interim order was passed on 29.08.2018. Eventually all such writ petitions were allowed by the Division Bench and the demand notices as well as G.O. in question were set aside on 28.05.2020. The judgment and order dated 28.05.2020 was challenged by YEIDA in SLPs. The SLPs were allowed by Hon'ble Apex Court on 19.05.2022 in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra). Thereafter, consequential demand notice dated 20.09.2022 was issued by YEIDA against which present writ petition is preferred.

84. In the present matter, vide interim order in question dated 05.01.2023, the Coordinate Bench had dismissed the challenge to the additional compensation on the ground of proportionality and quantum and only on the issue of interest, the response was asked from YEIDA.

85. In the connected Writ-C No.2674 of 2023 (M/s Maruti Educational Trust v. State of U.P. & Anr.), the petitioner has challenged the demand notice dated 20.09.2022 of Rs.53.56 crores. The interim order was accorded by this Court on 17.02.2023 subject to deposit of Rs.30 crores. However, on modification, the amount was modified to the tune of Rs.18,21,15,000/-, which the petitioner had already deposited.

86. In the present matter, the respondent authority has vehemently pressed that there is unjust enrichment. The first demand notice was given to the petitioner on 15.12.2014 and once G.O. in question as well as Board Resolution in question were upheld by the Supreme Court in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra), which mandates the payment of additional compensation as part of the land allotment cost, therefore, we find that the directives in the said judgment are authoritative and legally binding and established the petitioner's obligation to pay both principal and interest on the delayed

payment. The conduct of the petitioner was not bonafide as it never made any payment, following the first demand notice dated 15.12.2014. Only part payment of Rs.15 crores was made only in compliance of the interim order in question dated 05.01.2023. The record clearly reflects that at no point of time prior to interim order in question the petitioner was ever inclined to deposit even the additional compensation. Hon'ble Supreme Court in **Dr. Sham Lal Narula v. Commissioner of Income-Tax, Punjab**[56] has observed in para 8 as under:-

> *".....8. The Legislature expressly used the word "interest" with its well konwn connotation under s. 34 of the Act. It is, therefore, reasonable to give that expression the natural meaning it bears. There is an illuminating exposition of the expression "interest" by the House of Lords in Westminster Batik, Ltd. v. Riches(1). The question there was whettier where in an action for recovery of any debt or damages the court exercises its discretionary power under a statute and orders that there shall be included in the sum for which the judgment is given interest on the debt or damages, the sum of interest so included is taxable under the Income-tax Acts. If the said amount was "interest of money" within Schedule D and the General Rule 21 of the All Schedules Rules of the Income Tax Act, 1918, income-tax was payable thereon. In. that context it was contended that money awarded as damages for the detention of money was not interest and bad not the quality of interest. Lord Wright observed: "The general idea is that he is entitled to compensation for the deprivation. From that point of view it would seem immaterial whether the money was due to him under a contract express or implied, or a statute, or whether the money was due for any other reason in law. In either case the money was due to him and was not paid or, in other words, was withheld from him by the debtor after the time when payment should have been made, in breach of his legal rights, and interest was a compensation, whether the compensation was liquidated under an agreement or statute, as for instance under section 57 of the Bills of Exchange Act, 1882, or was unliquidated and claimable under the Act as in the present case. The essential quality of the claim for compensation is the same, and the compensation is properly des- cribed as interest".*
>
> *This passage indicates that interest, whether it is statutory or contractual, represents the profit the creditor might*

56 AIR 1964 SC 1878

have made if he had the use of the money or the loss he suffered, because he had not that use. It is something in addition to the capital amount, though it arises 'out of it. Under s. 34 of the Act when the Legislature designedly used the word "interest" in contradistinction to the amount awarded, we do not see any reason why the expression should not be given the natural meaning it bears. The scheme of the Act and the express provisions there,of establish that the statutory interest payable under s. 34 is not compensation paid to the owner for depriving him of his right to possession of the land acquired, but that given to him for the deprivation of the use of the money representing the compensation for the land acquired……..”

87. We find that the judgment in **South Eastern Coalfields Ltd. v. State of M.P.** (Supra) is fully applicable upon the present case, wherein the State Government, enhanced the royalties payable on coal by the mine lessees, similar to the additional compensation in the present case, which initially was not part of the lease deed. The High Court initially accorded interim orders protecting the recovery of enhanced royalties from the mining companies but finally quashed the notification enhancing the royalties. However, the Supreme Court upheld the demand for enhanced royalty. Subsequently, interest was demanded as restitution along with royalty, which was considered and the Supreme Court upheld the demand for interest as restitution, even for the period during which the opposite party benefitted from the interim order. Furthermore, the Supreme Court held that interest is an obligation to pay in equity, even in the absence of an agreement or custom to that effect. The ratio of the judgment in South Eastern Coalfields (Supra) is principally based upon the law of equity and has been followed in numerous subsequent cases. At this stage, it is not amenable to the petitioner to press the relief that the interest cannot be charged except in accordance with law. The G.O. in question, Resolution in question and subsequent demand notice had been approved by the Supreme Court in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra) and the

interest is also payable in equity in certain circumstances. The rule in equity is that interest is payable even in the absence of any agreement or custom to that effect though subject, of course, to a contrary agreement. For ready reference, the relevant paragraphs of the judgment in South Eastern Coalfields Ltd. (Supra) is reproduced as under:-

> *".....21. Interest is also payable in equity in certain circumstances, me rule in equity is that interest is payable even in the absence of any agreement or custom to that effect though subject, of course, to a contrary agreement (See : Chitty on Contracts, Addition 1999, Vol. II, Part 38-248, at page 712). Interest in equity has been held to be payable on a market rate even though the deed contains no mention of interest. Applicability of the rule to award interest in equity is attracted on the existence of a state of circumstances being established which justify the exercise of such equitable jurisdiction and such circumstances can be many.*
>
> *22. We may refer to the decision of this Court in Executive Engineer, Dhenkanal Minor Irrigation Division, Orissa and Ors. v. N.C. Budharaj (Deceased) by Lrs. and Ors., (2001) 2 5CC 721, wherein the controversy relating to the power of an arbitrator (under the Arbitration Act 1940) to award interest for pre-reference period has been settled at rest by the Constitution Bench. The majority speaking through Doraiswamy Raju, J., has opined that the basic proposition of law that a person deprived of the use of money to which he is legitimately entitled has a right to be compensated for the deprivation by whatever name it may be called, viz., interest, compensation or damages and this proposition is unmistakable and valid; the efficacy and binding nature of such law cannot be either diminished or whittled down. It was held that in the absence of anything in the arbitration agreement, excluding the jurisdiction of the arbitrator to award interest on the amount due under the contract, and in the absence of any other prohibition, the arbitrator can award interest.*
>
> *…….*
>
> *24. We are, therefore, of the opinion that in the absence of there being a prohibition either in law or in the contract entered into between the two parties, there is no reason why the Coalfields should not be compensated by payment of interest for the period for which the consumers/purchasers did not pay the amount of*

enhanced royalty which is a constituent part of the price of the mineral for the period for which it remained unpaid. The justification for award of interest stands fortified by the weighty factor that the Coalfields themselves are obliged to pay interest to the State on such amount. It will be a travesty of justice to hold that though the Coalfields must pay the amount of interest to the State but the consumers/purchasers in whose hands the money was actually withheld be exonerated from liability to pay the interest.

Liability of the consumers/purchasers to pay interest to the Coalfields :

(b) (for the period for which the restraint order passed by the Court remained in operation)

……..

26. In our opinion, the principle of restitution takes care of this submission. The word 'restitution' in its etymological sense means restoring to a party on the modification, variation or reversal of a decree or order, what has been lost to him in execution or decree or order or the court or in direct consequence of a decree or order (See : Zafar Khan and Ors. v. Board of Revenue, U.P., and Ors., . In law, the term 'restitution' is used in three senses; (i) return or restoration of some specific thing to its rightful owner or status; (ii) compensation for benefits derived from a wrong done to another; (iii) compensation or reparation for the loss caused to another. (See Black's Law Dictionary, Seventh Edition, p.1315). The Law of Contracts by John D. Calamari & Joseph M. Perillo has been quoted by Black to say that 'restitution' is an ambiguous term, sometimes referring to the disgorging of something which has been taken and at times referring to compensation for injury done.

"Often, the result in either meaning of the term would be the same. ..... Unjust impoverishment as well as unjust enrichment is a ground for restitution. If the defendant is guilty of a non-tortuous misrepresentation, the measure of recovery is not rigid but, as in other cases of restitution, such factors as relative fault, the agreed upon risks, and the fairness of alternative risk allocations not agreed upon and not attributable to the fault of either party need to be weighed."

The principle of restitution has been statutorily recognized in Section 144 of the Code of Civil Procedure, 1908. Section 144 of the C.P.C. speaks not only of a decree being varied, reversed, set aside or modified but also includes an order on par with a decree. The scope of

the provision is wide enough so as to include therein almost all the kinds of variation, reversal, setting aside or modification of a decree or order. The interim order passed by the Court merges into a final decision. The validity of an interim order, passed in favour of a party, stands reversed in the event of final decision going against the party successful at the interim stage. Unless otherwise ordered by the Court, the successful party at the end would be justified with ail expediency in demanding compensation and being placed in the same situation in which it would have been if the interim order would not have been passed against it. The successful party can demand (a) the delivery of benefit earned by the opposite party under the interim order of the court, or (b) to make restitution for what it has lost; and it is the duty of the court to do so unless it feels that in the facts and on the circumstances of the case, the restitution would far from meeting the ends of justice, would rather defeat the same. Undoing the effect of an interim order by resorting to principles of restitution is an obligation of the party, who has gained by the interim order of the Court, so as to wipe out the effect of the interim order passed which, in view of the reasoning adopted by the court at the stage of final decision, the court earlier would not or ought not to have passed. There is nothing, wrong in an effort being made to restore the parties to the same position in which they would have been if the interim order would not have existed.

27. Section 144 of the C.P.C. is not the fountain source of restitution; it is rather a statutory recognition of a pre-existing rule of justice, equity and fair play. That is why it is often held that even away from Section 144 the Court has inherent jurisdiction to order restitution so as to do complete justice between the parties. In Jai Berham v. Kedar Nath Marwari (1922) 49 LA. 351, their Lordships of the Privy council said:

"It is the duty of the Court under Section 144 of the Civil Procedure Code to place the parties in the position which they would have occupied but for such decree or such part thereof as has been varied or reversed. Nor indeed does this duty or jurisdiction arise merely under the said section. It is inherent in the general jurisdiction of the Court to act rightly and fairly according to the circumstances towards all parties involved.

Cairns, L.C., said in Rodger v. Comptoir d'Escompte de Paris, (1871) L.R. 3 P.C.:

"One of the first and highest duties of all Courts is to take cars that the act of the Court does no injury to any

of the suitors and when the expression, the act of the Court is used, it does not mean merely the act of the primary Court, or of any intermediate Court of appeal, but the act of the Court as a whole from the lowest court which entertains jurisdiction over the matter up to the highest Court which finally disposes of the case".

This is also on the principle that a wrong order should not be perpetuated by keeping it alive and respecting it, A.A. Nadar v. S.P. Rathinasami, (1971) 1 MLJ 220. In the exercise of such inherent power the Courts have applied the principles of restitution to myriad situations not strictly falling within the terms of Section 144.

……..

29. Once the doctrine of restitution is attracted, the interest is often a normal relief given in restitution. Such interest is not controlled by the provisions of the Interest Act of 1839 or 1978."

88. Similar view has also been taken by Hon'ble Apex Court in **T.N. General & Distribution Corpn. Ltd. v. PPN Power Generating Co. (P) Ltd**.[57]. For ready reference, the relevant paragraphs 73 ad 74 of the said judgment is reproduced as under:-

"....73. With regard to the issue raised about the interest on late payment, APTEL has considered the entire matter and come to the conclusion that interest is payable on compound rate basis in terms of Article 10.6 of the PPA. In coming to the aforesaid conclusion, APTEL has relied on a judgment of this Court in Central Bank of India vs. Ravindra & Ors. [19]. In this judgment it has been held as follows:

"……..The essence of interest in the opinion of Lord Wright, in Riches v. Westminster Bank Ltd.All ER at p. 472 is that:

....it is a payment which becomes due because the creditor has not had his money at the due date. It may be regarded either as representing the profit he might have made if he had had the use of the money, or, conversely, the loss he suffered because he had not that use. The general idea is that he is entitled to compensation for the deprivation; the money due to the creditor was not paid, or, in other words, was withheld from him by the debtor after the time when payment should have been made, in breach of his legal rights, and interest was a compensation whether the

57 (2014) 11 SCC 53

compensation was liquidated under an agreement or statute.

A Division Bench of the High Court of Punjab speaking through Tek Chand, J. in CIT v. Dr Sham Lal Narula thus articulated the concept of interest:

the words 'interest' and 'compensation' are sometimes used interchangeably and on other occasions they have distinct connotation. 'Interest' in general terms is the return or compensation for the use or retention by one person of a sum of money belonging to or owed to another. In its narrow sense, 'interest' is understood to mean the amount which one has contracted to pay for use of borrowed money. ...

In whatever category 'interest' in a particular case may be put, it is a consideration paid either for the use of money or for forbearance in demanding it, after it has fallen due, and thus, it is a charge for the use or forbearance of money. In this sense, it is a compensation allowed by law or fixed by parties, or permitted by custom or usage, for use of money, belonging to another, or for the delay in paying money after it has become payable."

74. Similar observations have been made by this Court in Indian Council of Enviro-Legal Action vs. Union of India & Ors. [20] wherein it has been held as follows:

"178. To do complete justice, prevent wrongs, remove incentive for wrongdoing or delay, and to implement in practical terms the concepts of time value of money, restitution and unjust enrichment noted above—or to simply levelise—a convenient approach is calculating interest. But here interest has to be calculated on compound basis—and not simple—for the latter leaves much uncalled for benefits in the hands of the wrongdoer.

179. Further, a related concept of inflation is also to be kept in mind and the concept of compound interest takes into account, by reason of prevailing rates, both these factors i.e. use of the money and the inflationary trends, as the market forces and predictions work out.

180. Some of our statute law provide only for simple interest and not compound interest. In those situations, the courts are helpless and it is a matter of law reform which the Law Commission must take note and more so, because the serious effect it has on the administration of justice. However, [pic]the power of the Court to order compound interest by way of restitution is not fettered in any way. We request the Law Commission to consider and recommend necessary amendments in relevant laws……."

89. A plea has also been taken by learned Senior Counsel for the petitioner before this court as well as before the Supreme Court that being an educational institution, the petitioner had never given an undertaking to the State Government for payment of additional compensation. Hon'ble Apex Court in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra) did not accept these pleas and upheld the validity of G.O. in question as well as Board Resolution in question along with consequential demand of all allottees equally. It was also argued by Shri Manish Goyal that the petitioner had given undertaking on 07.06.2014 affirming to pay any future liability arising towards lease rent. Hon'ble Apex Court while passing the judgment in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra) had already rejected the plea of the petitioner qua educational institution and observed that the educational institution cannot be exempted from obligation to pay additional compensation as this could create an unfair disparity among farmers, whose land has been acquired. Moreover all the farmers are entitled to equal compensation irrespective of any use of land by the allottees.

90. We find that initially the object of the 51st Board Resolution was to pay additional compensation to the farmers and even in case of allottees, who did not agree to pay additional compensation, leave was accorded to them to surrender the plot and get refund of the deposited amount (other than penal interest) along with interest @ 6% p.a. However, no such endeavour or serious efforts reflected from the record that the petitioner was even willing to pay up the additional compensation.

91. The demand notice of the year 2014 sent by YEIDA to the petitioner for payment of additional compensation specifically stipulated two terms i.e. (a) rate of additional compensation @ 600/sqm; (b) levy of penal interest in case of failure to deposit

additional compensation by the specified dates. Finally the Supreme Court in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra) had approved the demand notice of the year 2014. The demand letter of the year 2014, which was subject matter of challenge before the Division Bench in earlier round of litigation in which initially interim order was accorded but later on the writ petition was allowed. However, finally in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra), the G.O. in question; resolution in question as well as the demand was approved by the Supreme Court.

92. In view of the above uncontroverted facts, the issue with regard to liability of petitioner for payment of additional compensation to be paid to the farmers has been set at rest. Therefore, the computation made by YEIDA while raising the first demand in the year 2014 and later on through second demand of the year 2018 is no longer res integra in view of the judgment in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra). In the aforesaid circumstances, if the petitioner is entitled to seek relief against YEIDA in respect of the same cause of action, the petitioner cannot split up the claim so as to omit one part to the claim and sue for the other cause i.e. interest in the subsequent petition. If the cause of action is same, the petitioner has to place all his claims before the Court in one proceeding, as Order 2 Rule 2 CPC is based on the cardinal principle that the respondent-YEIDA should not be vexed twice for the same cause of action.

93. It is well settled that Order 2 Rule 2 CPC requires the unity of all claims based on the same cause of action in one suit, it does not contemplate unity of distinct and separate cause of action. The earlier proceeding, which were drawn by the petitioner while filing the earlier writ petition, wherein he has challenged the demand of 2014 and the Government Order in question as well as Resolution in question, the same was put at rest by the Supreme Court on 19.05.2022 in Yamuna

Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra). Subsequently, present proceeding has been drawn in the year 2022. Considering the relief, we find that no fresh cause of action arose between first proceeding and second proceeding.

94. The penal interest was shown in the first demand as well as interest and penal interest were also indicated in the second demand of the year 2018 due to alleged default of the petitioner. The subsequent (third) notice has been challenged in the present proceeding. Surprisingly earlier petition was filed in the year 2018 and at the same time it was known to the petitioner qua interest and penal interest. After finalisation of the earlier proceeding and approval of demand of YEIDA based upon Government Order in question and the Resolution in question, present proceeding has been drawn questioning the validity of impugned demand letter dated 20.9.2022 sent by YEIDA to the extent that the said letter pertains to demand of 64.7% additional compensation (inasmuch as other demands mentioned in the letter already stand challenged by way of other legal remedies adopted by the petitioner as stated in para 5 of the present writ petition). Alternatively, it had also been prayed for a direction to YEIDA not to recover from the petitioner any amount other than the amount of 64.7% additional compensation. The impugned demand notice dated 20.9.2022 is only reiteration of earlier first and second demand notices of the year 2014 and 2018 respectively.

95. Order 2 Rule 2 CPC provides that every proceeding (suit) shall include the whole of the claim, which the petitioner (plaintiff) is entitled to make in respect of same cause of action. The petitioner is not entitled to split the cause of action into parts by filing separate proceedings (suits). We find, as such, that the petitioner had not omitted present relief but infact challenged the demand letter in the light of G.O. in question and resolution in question in the previous litigation. Even in such situation, it cannot be presumed that the petitioner had omitted certain reliefs, which they want to press in the present proceeding.

Present relief was available to the petitioner and infact it had also been challenged in the previous proceeding, therefore, it cannot be permitted to reagitate the same cause of action in the subsequent writ petition. The object of Order 2 Rule 2 CPC is to avoid multiplicity of proceedings and not to vex the parties again and again in a litigative process. The object is very noble and laudable and it has a larger public purpose to achieve by not burdening the court with repeated proceedings.

96. We cannot, at this juncture, ignore the facts that the petitioner in its attempt had challenged the Government Order dated 29.8.2014 and demands raised on its basis and the Division Bench of this Court had clubbed all such matters and allowed the same vide its judgment and order dated 28.05.2020 and held that the G.O. dated 29.8.2014 and its acceptance by YEIDA is patently illegal. It is violative of the provisions of the L.A. Act and is otherwise without jurisdiction as no such Government Order is liable to be issued in equity by the Government and that the policy behind it is unfair, unreasonable and arbitrary which is in violation of the provisions of the T.P. Act. Thereafter, the Government Order dated 29.08.2014 was held to be invalid and consequentially, all actions and demands of the YEIDA based upon it were held to be illegal. The aforesaid judgment and order passed by the Division Bench of this Court was challenged by YEIDA before Hon'ble Apex Court by way of SLPs and the SLPs were allowed by way of judgment in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra). The relevant paragraph nos.70, 71 and 72 of the said judgment are again reproduced as under:-

> *70. In conclusion, we are of the considered view that the policy decision of the State Government as reflected in the said G.O. dated 29th August, 2014 and the Resolution of the Board of YEIDA dated 15th September, 2014 were in the larger public interest, taking care of the concerns of the allottees as well as the farmers. As already discussed hereinabove, had the said decision not been taken, there was a hanging sword of the acquisition being declared unlawful. The development of the entire project was stalled on account of farmers' agitation.*

Before taking the policy decision, the State Government, through the Chaudhary Committee, had done a wide range of deliberations with all the stakeholders including the allottees, farmers and YEIDA. The policy decision was taken after taking into consideration all relevant factors and was guided by reasons. In any case, it is a settled position of law that in case of a conflict between public interest and personal interest, public interest will outweigh the personal interest. The High Court was therefore not justified in holding that the policy decision of the State was unfair, unreasonable and arbitrary. We are of the considered view that the High Court has erred in allowing the writ petitions. The present appeals, therefore, deserve to be allowed.

71. In the result, we pass the following order:

(i) The appeals are allowed;

(ii) The impugned judgment and order dated 28 th May, 2020, passed by the Allahabad High Court in Writ Petition No. 28968 of 2018 and companion matters is quashed and set aside;

(iii) The writ petitions filed by the respondents covered by the impugned judgment and order dated 28th May, 2020 passed by the Allahabad High Court are dismissed;

72. Applications for Intervention are allowed. Pending applications, including the applications for directions, shall stand disposed of in the above terms. There shall be no order as to costs." .

97. Since the relief, as has been prayed for, is already negated by the Supreme Court, therefore, at this stage, the petitioner cannot be permitted to turn back and challenge the demand on the ground that the liability, rate, period etc. of interest had not been disclosed in G.O. in question, Resolution in question and YEIDA's demand notices. The matter in issue is already decided for the parties interse by Hon'ble Apex Court in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra), hence the principle of resjudicata would also be attracted. (Ref. **M.P. Palanisamy & Ors. v. A Krishnan & Ors.**[58] and **Pondicherry Khadi**

58 (2009) 6 SCC 428

& Village Industries Board v. P. Kulothangan & Ors.[59]). For ready reference, paragraph 39 of the judgment in M.P. Palanisamy & Ors. v. A Krishnan & Ors. (Supra) is reproduced as under:-

> *"39. We cannot, at this juncture, ignore the fact that the appellants in their first attempt before the Tribunal, challenged only the first condition regarding the appointment and chose not to challenge the second condition. At that juncture, they had the full opportunity of challenging the second condition also. They conveniently interpreted the G.O.Ms. No. 1813 in their favour, and in our opinion, wrongly, and ignored to challenge the second condition. This is not permissible. They could not thereafter turn back and challenge the second condition in the second or third round of litigation. It is for this reason also, that the claim of the appellants must fail."*

98. We find that the principles of resjudicata laid down under Section 11 CPC including the principles of constructive resjudicata are applicable in the present matter. Since the Supreme Court has already approved the G.O. in question, resolution in question as well as first and second demand notices in the earlier proceeding, therefore, it is not amenable to the petitioner to turn around and press the present relief, which is barred by principles of resjudicata.

99. The principle of res judicata fully operates in the court proceeding. It is the courts, which are prohibited from trying the issue, which was directly and substantially in issue in the earlier proceedings between the same parties, provided the court trying the subsequent proceeding is satisfied that the earlier court was competent to dispose of the earlier proceedings and that the matter had been heard and finally decided by such court. While deciding the matter by the Supreme Court, not only G.O. in question and resolution in question but the demand notices were also under challenge and the matter had been heard and finally decided by the Supreme Court. In the instant case, the parties were the same. Hon'ble Supreme Court was competent to decide the issue, which it did with a reasoned order on merits after the contested hearing. In the earlier proceeding, the ground of interest and penal interest were also the subject matter in view of the first and second

59 (2004) 1 SCC 68 (paragraphs 10 and 11)

demand notice, which the YEIDA claimed and the Supreme Court had approved the G.O. in question and the Resolution in question, therefore, the decision was final and at present it is not open to the petitioner to reagitate the issue. (Ref. **K. Ethiajan (dead) by Lrs. v. Lakshmi & Ors.**[60] and **Gorte Gouri Naidu (minor) and Anr. v. Thandrothu Bodemma & Ors.**[61]. For ready reference, paragraphs 13 to 20 of K. Ethiajan (dead) by Lrs. v. Lakshmi & Ors. (Supra) are reproduced as under:-

> *"…….13. After considering the rival contentions advanced by the counsel for the parties and on perusal of the record of this case, we find that there was no justification for the High Court in second appeal to reverse the concurrent findings and judgments of the two courts below.*
>
> *14. As held by this Court in the two decisions in cases of Ramalinga Samigal Madam and R. Manicka Naicker (supra), erders or decisions of the Settlement Officers granting patta under the Act of 1948 are not conclusive with regard to the dispute of title between parties to the lands in question and civil court alone is competent to decide the question of title. In the present case, the question of title to the suit properties, particularly on the plea of claim of ownership by deceased K. Ethirajan, directly and substantially arose between the same parties in earlier Original Suit No. 9003 of 1973 and the Apeal Suit No. 389 of 1977 arising therefrom. In the aforesaid previous litigation deceased M.Gurunathan sought eviction of deceased K. Ethirajan claiming exclusive title to the suit properties.*
>
> *15. Deceased K. Ethirajan as defendant to the previous suit resisted it both on the ground of adverse possession as well as on the alleged co-ownership of the parties recognised by grant of joint patta (Ex. A-7).*
>
> *16. We have perused the contents of the two judgments in Civil Suit No. 9003 of 1973 (Ex. A-22) and appellate judgment dated 24.4.1979 (Ex. A-32). We find that the High Court has clearly erred in observing in the impugned judgment that in the earlier suit, co-ownership to the suit property was not claimed by deceased - plaintiff (K. Ethirajan). In the paper book containing additional documents, copies of the judgments of Exs. A-22 and A-23*

60 (2003) 10 SCC 578

61 (197) 2 SCC 552

have been placed before us. The trial court dismissed the suit of deceased - respondent (M. Gurunathan) on the ground that the case of grant of leave and licence set up by him was not poved and the defendant being in possession since 1940 onwards has perfected his title by adverse possesion. The appellate court negatived the plea of adverse possession set up by Ethirajan as defendant but by relying on the joint patta (marked as Ex. B-6 in that Suit) came to the conclusion that the parties were co-owners. It was held that between co-owners, plea of adverse possession cannot accepted. The decree of dismissal of the suit for eviction of deceased - K. Ethirajan granted by the trial court was upheld by the appellate court on the ground that plea of grant of licence by deceased M. Gurunathan was not proved and the parties were co-owners under the joint patta in their favour. The appellate judgment upholding the dismissal of the suit on the finding of co-ownership of the parties was not challenged by any further appeal. The said judgment has thus attained finality. The learned counsel appearing for the respondents is right in his submission that the dispute of title to the suit properties between the parties was an issue directly and substantially involved in the earlier suit and on the principle of res judicata, in the present suit defendant - M. Gurunathan or his LRs are estopped from questioning the claim of co-ownership urged by deceased K. Ethirajan and his LRs. The following observations at para 26 in the case of Hope Plantations Ltd (supra) relied upon by the counsel appearing for the appellant fully support his argument based on the principle of res judicata and estoppel :

"26. It is settled law that the principles of estoppel and res judicata are based on public policy and justice. Doctrine of res judicata is often treated as a branch of the law of estoppel though these two doctrines differ in some essential particulars. Rule of res judicata prevents the parties to a judicial determination from litigating the same question over again even though the determination may even be demonstratedly wrong. When the proceedings have attained finality, parties are bound by the judgment and are estopped from questioning it. They cannot litigate again on the same cause of action nor can they litigate any issue which was necessary for decision in the earlier litigation. These two aspects are "cause of action estoppel" and "issue estoppel". These two terms are of common law origin. Again, once an issue has been finally determined, parties cannot subsequently in the same suit advance arguments or adduce further evidence directed to showing that the issue was wrongly determined. Their only remedy is to approach the higher forum if available. The

determination of the issue between the parties gives rise to, as noted above, an issue estoppel. It operates in any subsequent proceedings in the same suit in which the issue had been determined. It also operates in subsequent suits between the same parties in which the same issue arises."

17. Learned counsel appearing for the respondents in his reply to the plea based on res judicata and estoppel contended that if at all the judgments in the earlier suits (Exs. A-22 and A-23) can be held to operate as res judicata between the parties, it would fee operative only in respect of a portion of the suit property measuring 37'x20' with super-structure thereon which alone was the subject matter of dispute in the earlier suit.

18. The above contention advanced in reply of the learned counsel appearing for the respondents, cannot be accepted. In the earlier suit, deceased - M. Gurunathan sought eviction of deceased - K. Ethirajan from a portion of the suit property by claiming exclusive title to the whole property involved in the present suit. The case of deceased - K. Ethirajan in that suit was of adverse possession and alternatively co-ownership on the basis of joint patta (Ex. A-7). Looking to the pleadings of the parties in that suit (copies of which are placed before us in additional paper-book), the ground urged by the respondent that in the earlier litigation, claim of exclusive ownership set up by deceased - M. Gurunathan was restricted only to a portion of the whole property involved in this suit, does not appear acceptable. On the basis of pleadings of the earlier suit, we find that the issue directly involved was claim of exclusive ownership of deceased - M. Gurunathan to the whole property left behind by deceased Gangammal although eviction was sought of the defendant from a particular portion of the land on which he had built a hut for residence. The suit was resisted by deceased K. Ethirajan claiming adverse possession and alternatively as co- owner on the basis of joint patta (Ex. A-7).

19. It is true that joint patta (Ex. A-7) granted by Settlement Authorities in proceedings under the Act of 1948 cannot itself be a source of title to claim ownership and right of partition but as has been found by the trial court and the first appellate court, the plaintiffs claim for partition is not based on joint patta (Ex. A-7) alone but judgments rendered between same parties [Exs. A-22 and A-23] in the previous suit and appeal, have also been relied wherein the claim of the present plaintiff to remain in possession of the suit property without any interference by deceased M. Gurunathan and now his LRs had been crystalised by decree of dismissal of suit for eviction

agains him. Based on the judgment in the previous litigation an indefeasible right to continue to occupy the suit property as owner had been created in favour of the present plaintiff and the said judgment has attained finality between the same parties and their LRs.

20. The argument that principle of res judicata cannot apply because in the previous suit only a part of the property was involved when in the subsequent suit the whole property is the subject matter cannot be accepted. The principle of res judicata under Section 11 of the Code of Civil Procedure is attracted where issues directly and substantially involved between the same parties in the previous and Subsequent suit are the same - maybe - in the previous suit only a part of the property was involved when in the subsequent suit, the whole property is the subject matter……."

100. For ready reference, the relevant paragraph 4 of the judgment in Gorte Gouri Naidu (minor) and Anr. v. Thandrothu Bodemma & Ors. (Supra) is also reproduced as under:-

"……4. It however appears to us that previously between the parties another suit was instituted in the Court of the learned Subordinate Judge Srikakulam being original suit No.50 of 1954. In the said suit, the validity of the deed of gifts made by Sowaramma was questioned. It was held by the learned Subordinate Judge that the said deed of gifts were not valid under the Hindu Law. The appeal was taken to the Andhra Pradesh High Court being appeal No.514 of 1968 and by judgment dated 12.2.1971, the High Court disposed of the said appeal No.514 of 1968 wherein the High Court disposed of the said appeal No.514 of 1968 wherein the High Court held that such dead of gift was invalid in law. By the impugned judgment, the Division Bench of the Andhra Pradesh High Court has held that in view of such declaration of the said deed of gifts as invalid, no claim of title on the basis of the said deed of gift or family settlement can be made. In our view, such decision of the division Bench is Justified since the said earlier decision in declaring the deeds of gift as invalid, is binding between the parties. There is no occasion to consider the principle of estoppel since considered by the learned Single Judge in the facts and circumstances of the case for holding the said transfers as valid, in view of the earlier adjudication on the validity of the said deeds in the previous suit between the parties. The law is well settled that even if erroneous,

an inter party judgment binds the party if the court of competent jurisdiction has decided the lis. We, therefore, find no reason to interfere with the impugned decision of the High Court. This appeal therefore fails and is dismissed without any order as to costs.

CONCLUSION

101. Considering the facts and circumstances of the case, we find that the petitioner is liable to pay interest on additional compensation during the pendency of litigation initiated by it, as per the doctrine of restitution upheld by the Hon'ble Supreme Court. The interest acts as compensation for the period during which the petitioner was unjustly enriched by withholding the lawful dues owed to YEIDA. Interest on the additional compensation can be claimed by YEIDA as part of equitable restitution, given that the petitioner benefited from the interim relief granted during the litigation. The Principle of restitution is founded on the ideal of complete justice, entitling the successful party to compensation, including interest, for the period it was deprived of its lawful dues.

102. We find that the petitioner is also liable to pay penal interest from the date of accrual of demand till the date of actual payment, as mandated by the Supreme Court in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra) in which the validity of G.O. in question as well as Board Resolution in question had been affirmed and non-compliance thereof attracts the imposition of penal interest as a lawful consequence. We find that G.O. in question as well as Board Resolution in question, having been held to serve a larger public interest, constitute "law" within the meaning of Article 13(2) read with Article 13(3)(a) of the Constitution. These directives derive their legal force from the Constitution and must be treated with the same deference as statutory law. YEIDA's issuance of demand notices and enforcement of the G.O. in question and Board Resolution in question constitute acts in aid of the Supreme Court's order. YEIDA's actions align with its constitutional

obligation to uphold the rule of law and facilitate the implementation of judicial directives. Conversely, the petitioner has consistently disregarded the legal obligations inspite of the mandate in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra) by which the G.O. in question as well as the Board Resolution in question had been upheld.

103. We find that while common law provisions like the Interest Act and Contract Act provide a supplementary framework, they do not supersede the constitutional directives governing the imposition of additional compensation in this case. The G.O. in question and Board Resolution in question, upheld by the Supreme Court, override the lease deed and establish a higher legal authority integrating principles of justice, equity, and public interest. The petitioner's claim of unjust enrichment on YEIDA's part is unsubstantiated and lacks merit. The interest levied is a legitimate exercise of YEIDA's rights under the law and serves as compensation for the delay in fulfilling a lawful obligation, rather than being an unjust benefit. We find that the principle of constructive res judicata precludes the petitioner from re- litigating the issue of interest on additional compensation, as it was an integral part of the cause of action in the earlier litigation.

104. We also find that the Petitioner's plea of being an educational institute and the absence of an undertaking to pay future liabilities cannot be considered valid, as this argument was already dismissed by Hon'ble Supreme Court in Yamuna Expressway Industrial Development Authority etc. v. Shakuntla Education and Welfare Society & Ors. (Supra). The said judgment did not recognize any exemption for educational institutions regarding the liability to pay additional compensation. Moreover, the Petitioner's claim of having meagre sources of income contradicts the information available on their official website, which clearly suggests that the petitioner is focused on profit-making through undisclosed fees for premium amenities. There is nothing on record to convince us that the petitioner is not indulged in

profit making. Moreover, all the farmers are entitled to equal compensation irrespective of any use of land.

105. We find that the petitioner's contentions lack legal and factual merit, as they disregard the binding nature of the Supreme Court's judgments and the constitutional framework governing YEIDA's actions. The principles of restitution, public interest, and the rule of law converge to uphold YEIDA's demand for additional compensation and the interest thereon. The petitioner's repeated attempts to evade its lawful obligations jeopardize the distribution of additional compensation intended for the affected farmers. The government directives, validated by the Hon'ble Apex Court, serve as a bulwark against such actions, ensuring that the benefits reach their rightful beneficiaries. The Petitioner's claim of charitable status and financial hardship are contradicted by their operational practices, which suggest a profit-driven approach. Nonetheless, these claims cannot override their legal obligations or the constitutional mandate in the public interest. In the interest of justice, equity, and the larger public good, it is imperative that the petitioner adheres to the lawful demands. YEIDA, as an instrumentality of the state, is duty-bound to enforce these directives without deviation, ensuring the distribution of additional compensation to the farmers and maintaining the rule of law.

106. The principles of constructive res judicata further reinforce the finality of the matter, precluding the petitioner from re-litigating settled issues. Continued defiance would not only undermine the authority of the judiciary but also impede the timely fulfillment of YEIDA's public duty to disburse the additional compensation to the farmers. In the face of such compelling legal and constitutional imperatives, the petitioner's contentions fail to withstand scrutiny. We find that YEIDA's actions in levying interest and demanding additional compensation are legally justified and essential for upholding legal obligations in the public interest, and ensuring equitable treatment of all stakeholders involved.

107. In the aforesaid facts and circumstances, we are not inclined to interfere in the matters. Both the writ petitions lack merit and are accordingly **dismissed.**

Order Date :- 10.07.2024
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