

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD

WRIT PETITION NO. 5101 OF 2013

Bajaj Auto Ltd.,
Registered office at -
Akurdi, Pune – 411 035. Through its
Deputy General Manager Support Services
Shri. Jawahar Manachand Firodiya
Age : 60 years, Occu-Service.

Petitioner..

VERSUS

1. State Government of Maharashtra,
Through its Secretary,
Rural Development Department,
Maharashtra State, Mantralaya,
Mumbai.
2. The Divisional Commissioner,
Aurangabad.
3. Chairman Standing Committee,
Zilla Parishad, District – Aurangabad.
4. The Chief Executive Officer,
Zilla Parishad, Aurangabad, At Aurangabad.
5. Block Development Officer,
Panchayat Samiti, Taluka Gangapur,
District Aurangabad.
6. Grampanchayat Jogeshwari
Village – Jogeshwari, Taluka – Gangapur,
District – Aurangabad.
7. Chief Executive Officer,
Maharashtra Industrial Development Corporation,
Aurangabad.

Respondents..

.....
Shri. Prasad Dhakephalkar, Sr. Advocate with Shri. Ajay G. Talhar, Advocate for the petitioner
Shri. V. M. Kagne, AGP for respondent/State
Shri. U. B. Bondar, Advocate for respondents No. 3 to 5
Shri. Ashok A. More, Advocate for respondent No. 6
Shri. Khaire, Advocate h/f Shri. S. S. Dande, Advocate for respondent No. 7
.....

CORAM : **A. V. NIRGUDE &
V. L. ACHLIYA, JJ.**

DATE : **13TH APRIL, 2016.**

ORAL JUDGMENT (Per V. L. ACHLIYA, J.) :-

. Rule. Rule made returnable forthwith. The petition is heard finally at the stage of admission.

2. By this petition under Article 226 of the Constitution of India, the petitioner has sought quashing of bill of demand of property tax issued by respondent No. 6 – Gram Panchayat and further challenged the action of respondents No. 4 and 5 in sending back the agreement entered in between petitioner and respondent No. 6 to pay lump-sum contribution in lieu of taxes levied by panchayat without forwarding it to respondent No. 2 as well as the communication made in that behalf by respondents No. 5 and 6.

3. In brief, the facts leading to filing of petition are summarized as under:

Petitioner claims to be a company registered under the provisions of the Companies Act and engaged in the business of manufacture and sale of two and three wheelers, having registered office

at Pune. The petitioner has several manufacturing and assembling units situated in and around the State of Maharashtra. One of such manufacturing unit of petitioner-Company is located at Aurangabad. It is situated upon the land adm. 314 hectares located within the limits of MIDC, Aurangabad. In addition to said land, the petitioner also owns private land adm. 56.50 hectares. The entire land is located within the jurisdiction of Gram Panchayat of Waluj, Jogeshwari and Waladgaon within the district of Aurangabad. According to the petitioners, they are paying the service charges to the tune of Rs. 94,20,000/- per annum and Rs. 6,28,000/- towards fire safety services to MIDC, Waluj. It is further case of the petitioner that, the amenities such as roads, streets, electricity, drainage lines, water pipelines, sewage treatment, gardens etc. are created and maintained by petitioner. Since the year 1985 onwards, the petitioner is paying lump-sum contribution in lieu of taxes levied by the village panchayat as per the agreement entered into from time to time with respondent No. 6 as per provisions of Section 125 of the Bombay Village Panchayat Act, 1958 (Hereinafter referred as "Said Act). There was an agreement for payment of lump-sum contribution in lieu of tax for the year 2011-12. Upon expiry of the said period in the year 2012, the petitioner and respondent No. 6 entered into an agreement dt. 23.10.2012 to make lump-sum contribution in lieu of tax of Rs. 41,52,000/- per year for the period of three years i.e. the same amount as per earlier three years. The agreement which was executed between the petitioner and respondent No. 6 was submitted to Chief Executive Officer, Zilla Parishad, Aurangabad through Block Development Officer, Panchayat Samiti, Gangapur as per the procedure provided under the Maharashtra Village Panchayats Act (Payment of Lump Sum Contribution By Factories in lieu of Taxes) Rules, 1961

(hereinafter shall be referred to as “said Rules”). As per said rules it was necessary for Chief Executive Officer to present the same before the Standing Committee of Zilla Parishad, Aurangabad and then to forward the same with the remarks of Standing Committee of Zilla Parishad to the Divisional Commissioner, who, in turn to submit the same with his comments to the State Government for its sanction. However, respondent No. 4 i.e. the Chief Executive Officer, Zilla Parishad, Aurangabad instead of sending the said agreement to the Divisional Commissioner, terminated/repudiated the agreement entered in between the petitioner and respondent No.6 without any authority and the jurisdiction vested with him and acted contrary to the procedure set out in the said Rules. Being aggrieved by the petitioner has preferred this petition.

4. Although the petitioner has raised various challenges in the petition including the demand notice issued by respondent No. 6, but at the time of argument learned counsel for the petitioner has restricted his argument to action taken on the part of respondent No. 4 to return back the agreement to respondent No. 6 vide communication dt. 28.05.2013 (01.06.2013).

5. We have heard Shri. Prasad Dhakephalkar, learned Sr. Counsel appearing for petitioner, Shri. V. M. Kagne, learned AGP for respondents No. 1 and 2, Shri. U. B. Bondar, learned Advocate for respondents No. 3 to 5, Shri. Ashok More, learned Counsel for respondent No. 6 and Shri. Dande, learned counsel for respondent No. 7 and further perused the record and proceedings.

6. Mr. Dhakephalkar, the learned Sr. Counsel appearing for petitioner submitted that, as contemplated under Section 125(1) of the Maharashtra Village Panchayat Act the respondent No.6-Village Panchayat is empowered to enter into an agreement with the factory as that of petitioner with the sanction of State Government to receive a lump sum contribution in lieu of all or any of the taxes levied by the Panchayat. He has further submitted that, the State Government has framed the rules known as Maharashtra Village Panchayat Act (Payment of Lump Sum Contribution by Factories in lieu of Taxes) Rules, 1961 which lay down the procedure to be followed in entering into such agreement by the Village Panchayat and so also provides for the procedure to be adopted while submitting such agreement for sanction of the Government u/s 125 of the Village Panchayat Act. By placing emphasis on Rule 6 of the said Rules, the learned counsel vehemently contended that the Chief Executive Officer of the Zilla Parishad had no authority or any role in the matter except to forward the application/proposal to Commissioner with the remarks of Standing Committee of Zilla Parishad. Rule 6 nowhere provides for scrutiny of the application and application of mind by the Chief Executive Officer. He has further submitted that, Rule 7 of the said Rules provides for limitation for arriving at the agreement. He has invited our attention to rule 10 of the said Rules which provides for authority vested with the Government to sanction or to refuse sanction to such agreement entered in between the Village Panchayat and the factory. The question that, all the rules have been fully complied or not and the amount as payable is as per the agreement by the factory is reasonable or not, solely vest with the State Government. In the background of the said Rules of 1961, the learned counsel has submitted that the act and action on the part of

respondents No. 4 and 5 is per se illegal and beyond the authority and jurisdiction vested with them. He has submitted that, once such agreement entered in between the petitioner and respondent No. 6 has reached to Chief Executive Officer of Zilla Parishad, he had no option except to forward the same to the Commissioner with the remarks of Standing Committee of Zilla Parishad. Instead of following the procedure prescribed under the said Rules, the Chief Executive Officer called the meeting and gone to the extent of examining the reasonableness of amount as well as correctness of the agreement entered in between Village Panchayat and the petitioner and directed to return the agreement with further directions to execute the fresh agreement. By referring the contents of letter dt. 28.05.2013 (01.06.2013), the learned Sr. Counsel submitted that, the entire action on the part of respondents No. 4 and 5 is per se illegal and contrary to the rules framed by the State Government and, therefore, liable to be quashed and set aside. In support of submission, advanced the learned counsel has relied upon the decision of this Court in the case of *Sujaylaxmi Cotton Mills Ltd. Vs. State of Maharashtra and Ors.* reported in *2005(5) Bom.C.R. 454.*

7. Mr. Bondar, learned counsel appearing for respondents No. 3 to 5, supported the decision of Chief Executive Officer to return the agreement to respondent No. 6. He has submitted that, while submitting the proposal for lump sum contribution entered in between the petitioner and Gram Panchayat, the BDO, Gangapur i.e. respondent No. 5, informed the Chief Executive Officer that the earlier directions given by the Divisional Commissioner, Aurangabad vide letter dt. 01.04.2010 to resubmit the proposal for the year 2009-10 was not

complied. In view of this, the Chief Executive Officer, ZP, Aurangabad, invited all the parties for discussion. As per the discussion held in meeting dated 28.03.2013, which was also attended by the representative of the petitioner, it was decided that the petitioner shall make fresh application for fixing the lump sum contribution in lieu of tax and, thereafter, the Village Panchayat shall finalize the contribution and execute agreement and same shall be submitted to Chief Executive Officer, Zilla Parishad. It was further decided that, if the petitioner has any objection to such decision, then the petitioner may prefer appeal before the Block Development Officer, Panchayat Samiti, Gangapur. He has further submitted that, pursuant to the decision taken in meeting dt. 28.05.2013, the letter dt. 28.05.2013 was issued by Dy. Chief Executive Officer (Panchayat), which is impugned by way of this petition. Thereafter, the joint meeting was held on 19.06.2013 in which all the parties including the representative of the petitioner-company were present. The Gram Panchayat, Jogeshwari has not agreed to the proposal of the company. In this background the learned counsel has submitted that, instead of availing the alternate remedy by way of appeal, the petitioner has preferred this petition. He has submitted that, as efficacious remedy by way of appeal is available to the petitioner and, therefore, writ petition is not maintainable.

8. Mr More, the learned counsel appearing for respondent No. 6 supported the decision of Chief Executive Officer to return the proposal to Village Panchayat. He too submitted that, as the alternate remedy is available to the petitioner, to prefer appeal the writ petition is not maintainable.

9. We have thoroughly considered the submissions advanced. Since the challenge raised before us confines to decision of the respondent No. 4 to return the proposal to village panchayat, we confine ourselves to this challenge only though the petition raises various challenges which includes the authority of the village panchayat to levy and collect the taxes within the industrial area as well as the demand of property tax to the tune of Rs. 4,86,19,192/-. We left all other challenges raised in that behalf open for challenge by the petitioner.

10. In order to appreciate the submissions advanced that the Chief Executive Officer i.e. respondent No. 4 has no authority to examine agreement entered in between the Village Panchayat and the factory and the role attributed to him is limited to forward the agreement with the remarks of Standing Committee to the Commissioner, it would be necessary to refer the certain provisions of Maharashtra Village Panchayat Act, 1958 and said Rules of 1961 as applicable in the matter. Section 125 of the said Act reads thus:

Section 125: Lump-sum contribution by factories in lieu of taxes levied by Panchayats.-(1) *Subject to any rules that may be made under the Act, and regard being had to the fact that a factory itself provides in the factory area all or any of the amenities which such panchayat provides, a panchayat may arrive at an agreement with any factory with the sanction of the State Government to receive a lump-sum contribution in lieu of all or any of the taxes levied by the panchayat.*

(2) *Where no such agreement as is referred to in sub-section (1) can be reached the matter may be referred to the State Government in the manner prescribed and the State Government may after giving to the panchayat and the factory concerned an opportunity of being heard decide the amount of such contribution. The decision of the State Government shall be binding on the panchayat and the factory concerned.*

. Rule 3, 4, 5, 6, 7 and 10 which are relevant for adjudication of the present petition reads thus:

3. ***Application by occupier of factory*** – an occupier of a factory desiring to arrive at an agreement shall make an application not later than sixty days from the commencement of the financial year or, as the case may be, from the functioning of the factory during any financial year, in writing to the panchayat stating, -
- (a)(i) *the amounts paid by him to the panchayat in respect of each of the taxes levied by the panchayat during the three financial years immediately preceding the year or as the case may be, during the period of less than three years the factory has been functioning immediately preceding the financial year, in which the application is made.*
 - (ii) *the amount payable by the occupier to the panchayat in respect of all or any of the taxes levied by the panchayat during the financial year in which the application is made (the amount payable in respect of each tax being indicated separately);*
 - (b) *the details of the amenities provided by the occupier in the factory and which the panchayat provides within the limits of its jurisdiction.*
 - (c) *the expenditure incurred by the occupier on each of the amenities provided by him during the period referred to in sub-clause (i) of clause (b) up to the date of the application;*
 - (d) *the lump sum amount which the occupier proposes to pay to the panchayat in lieu of all or any of the taxes levied by the panchayat having regard to the amenities provided by the panchayat.*
4. ***Consideration of application by panchayat*** – On receipt of an application under Rule 3, the panchayat shall consider the application and, subject to the provisions of Rules 7 and 8, pass not later than sixty days from the date of receipt thereof, a resolution conveying its decision to the occupier.
5. ***Execution of agreement between panchayat and occupier and its submission to [Chief Executive Officer]*** – Where the panchayat agrees to accept the lump sum amount proposed by the occupier under clause (d) of Rule 3, an agreement in Form 'A' appended to these rules shall be executed between the panchayat and the occupier and the panchayat shall [submit to the chief Executive Officer such agreement within one month from the date of its

execution] along with the following documents that is to say : -

- (a) the application submitted by the occupier.*
- (b) the resolution passed by the panchayat.*

6. Submission of application by [Chief Executive Officer] to Government. - *On receipt of the agreement and the documents specified in Rule 5, the [Chief Executive Officer] shall, within [two moths] of their receipt, forward the same [with the remarks of the Standing Committee of Zilla Parishad] to the Commissioner who shall, within fifteen days thereafter, submit the same with the comments to the State Government for its sanction.*

7. Limitation for arriving at agreement. - *The amount of lump sum contribution may not be disproportionately less than the amount receivable by the panchayat in respect of taxes levied by it at the normal rate during the financial year in which the application is made and shall be, -*

- (a) not less than 70 per cent of the average amount recovered from levy of octroi for the last three years (or for the period during which the factory was functioning up to the date of application, whichever is less), immediately preceding the financial year in which the application is made.*
- (b) not less than 30 per cent of the amount receivable by the panchayat from levy of the following taxes, that is to say : -*
 - (i) general sanitary cess,*
 - (ii) general water rate, and*
- (c) not less than 50 per cent of the amount receivable by the panchayat from the levy of taxes other than those specified in clauses (a) and (b)*

[Provided that, in case of factories which are principally engaged in the production of aircraft for defence purposes, the State Government may, having regard to the amenities provided by such factories in the factory area as compared with the amenities provided by the panchayat in the other areas within its jurisdiction, and the amount spent by the factories on such amenities and also having regard to the nature of the public interest served by the factories, relax the rates aforesaid, in consultation with the panchayat and the factory concerned.]

10. ***Agreement not to be sanctioned ordinarily if provisions of rules are not complied with*** – No agreement in respect of which the provisions of any of the foregoing rules have not been complied with shall be sanctioned by the State Government unless the State Government is of opinion that having regard to the amenities provided by the factory in the factory areas as compared with the amenities provided by the panchayat in other areas within its jurisdiction, and the amount spent by the factory on such amenities and also having regard to the nature of public interest served by the factory, the amount of lump sum contribution specified in the agreement as payable by the factory is reasonable and on that account the agreement needs to be sanctioned :

Provided that before any agreement is sanctioned under this rule, the State Government shall obtain the views of the Chief Executive Officer concerned.

11. The plain reading of the Section 125 of the said Act provides that, if the factory itself provides in its area all or any of the amenities which such Village Panchayat provides, then the panchayat may arrive at an agreement with the factory with the sanction of State Government to receive in lump-sum contribution in lieu of all or any of the taxes levied by the panchayat. Thus, it is expressly provided in the provision itself that an agreement can be arrived at in between the factory and panchayat for payment of lump-sum contribution in lieu of payment of taxes, subject to rules framed in that behalf and sanction of the State Government. The decision of State Government is final and binding on both the side.

12. In exercise of the powers conferred by clause (xxvii) of sub-section 2 of Section 176 of Bombay Village Panchayats Act, 1958 (now named as Maharashtra Village Panchayats Act, 1958) and other enabling powers, the Government has framed the rules to regulate the

procedure for payment of lump-sum contribution by factories in lieu of taxes as contemplated under Section 125 of the said Act and said Rules of 1961. Rule 3 of the said Rules requires that an occupier of the factory desirous to arrive at an agreement with the Village Panchayat shall make an application not later than 60 days from the commencement of the financial year or as the case may be from the functioning of the factory during any financial year in writing to the panchayat stating therein the amount paid to the panchayat in respect of each of the taxes levied by the panchayat during the three financial years immediately preceding the year or as the case may be during the period of less than three years the factory has been functioning immediately preceding the financial year in which the application is made. In the application, the applicant has to give the details of the amenities provided by the occupier and the amenities which the panchayat provides within the limits of its jurisdiction as well as the expenditure incurred by the occupier on each of the amenities provided by him during the said period. The applicant has to mention amount which the occupier proposes to pay to the panchayat in lieu of all or any of the taxes levied by the panchayat having regard to the amenities provided by the panchayat. The applicant has also to give particulars of the taxes levied by the panchayat during the financial year in which application is made. Rule 4 of said Rules provides that, on receipt of the application under rule 3, the panchayat shall consider the said application and subject to rules 7 and 8 and pass not later than 60 days from the date of receipt of such application, a resolution conveying its decision to the occupier. Rule 5 requires that, after such agreement is arrived at, the agreement in Form 'A' appended to the rules shall be executed between the panchayat and the occupier and same shall be submitted to the Chief

Executive Officer of the Zilla Parishad within one month from the date of its execution along with the application submitted by the occupier and the resolution passed by the panchayat to accept the lump-sum contribution in lieu of tax.

13. So far as the controversy involved in the petition and which needs to be addressed by us revolves around rule 6 of the said Rules of 1961. Rule 6 of said Rules provides that, on receipt of the agreement and the documents specified in rule 5, the Chief Executive Officer shall within two months of the receipt thereof forward the same with the remarks of Standing Committee of Zilla Parishad to the Commissioner, who shall within 15 days thereafter, submit the same with the comments to the State Government. Thus, the rule 6 of said Rules attributes limited role to Chief Executive Officer in the process of forwarding the agreement for sanction to the State Government. The role of the Chief Executive Officer confines to place the agreement for consideration of Standing Committee for its remark within the period stipulated and then forward the same with the remarks of Standing Committee to the Commissioner. Neither the examination of the agreement nor the reasonableness of amount payable as lump-sum contribution agreed in between the parties falls within the competence and jurisdiction of the Chief Executive Officer. His role is confined to the extent of placing the proposal before the Standing Committee and then to forward the same to the Commissioner with the remarks of Standing Committee. To convene the meeting and to examine the correctness of the proposal as well as the agreement entered in between the parties as well as direction to return the proposal to village panchayat with further direction to resubmit proposal, not falls within the domain and authority vested with

the Chief Executive Officer. As per the procedure prescribed under said Rules, the authority to examine such proposal solely vest with State Government. Even the Commissioner has no authority to return the proposal/agreement. His role is also confined to forward the proposal with his comments to the State Government.

14. Rule 7 of the said Rules provides for certain limitation in entering into an agreement by occupier and panchayat. It provides that lump-sum contribution should not be disproportionately less than the amount receivable by panchayat in respect of taxes levied by it at the normal rate during the financial year in which the application is made. It provides that, in case of *octroi*, it shall not be less than 70% of the average amount recovered by it for last three years. In case of general sanitary cess and general water rate, it shall not be less than 30% of the amount receivable by it and in case of other taxes, it should not be less than 50% of amount receivable by it.

15. Rule 10 of said Rules provides that, no agreement in respect of which the provisions of any of the foregoing rules have not been complied, shall be sanctioned by the State Government. So also such agreement shall not be sanctioned unless the State Government is of opinion that having regard to the amenities provided by the factory in the factory area as compared with the amenities provided by the Panchayat in other areas within its jurisdiction and amount spent by the factory on such amenities and also having regard to the nature of public interest served by the factory, the amount of lump-sum contribution specified in the agreement as payable by the factory is reasonable and on that count agreement needs to be sanctioned. It further provides that,

before any agreement is sanctioned the State Government shall obtain the views of the Chief Executive Officer concerned.

16. Thus, in the light of facts of the case, the controversy involved and the provisions of law and rules applicable in the matter, we have no hesitation to hold that, the Chief Executive Officer has no authority under the law to examine the agreement entered in between the panchayat and the factory. The Chief Executive Officer has a limited role to forward the agreement together with the documents to the Commissioner after obtaining the remarks of the Standing Committee of the Zilla Parishad. To examine the agreement and to ascertain as to whether the lump-sum contribution agreed between the parties is reasonable or not, do not falls within the powers and authority vested with the Chief Executive Officer as per the said Rules of 1961. To accept or to refuse the sanction such proposal solely vest with the State Government. At the stage of taking decision, if the Government desires to sanction the agreement then only before such agreement is sanctioned the State Government requires to obtain the views of the Chief Executive Officer. Thus, the role of Chief Executive Officer to express his views in the matter arose only when the State Government calls upon him to offer his views in the matter.

17. If we consider the rules of 1961, then said Rules provide a complete code insofar as issue of payment of lump-sum contribution by factory in lieu of taxes. The authority to sanction or refuse the agreement solely vest with the State Government. On receipt of the agreement for its sanction the Government is expected to examine the proposal together with accompaniments which includes the remarks of

standing committee and comments of Commissioner. While considering the case for sanction of the agreement, the Government has to first satisfy itself as to whether all the rules have been complied with or not before submitting the proposal for sanction. If the agreement is found to be not conform to any of the rules, the Government can refuse to sanction the same. Prior to granting such sanction, the Government has to satisfy that having regard to the amenities being provided to the factory in the factory area as compared with the amenities provided by the panchayat in other areas within its jurisdiction and the amount spent by the factory on such amenities and also having regard to the nature of public interest served by the factory, the amount of lump-sum contribution specified in the contribution as payable by the factory is reasonable or not and on that count agreement needs to be sanctioned or not. It further provides to obtain the views of Chief Executive Officer prior to sanction. In view of procedure laid down under said rules, we have no hesitation to hold that the Chief Executive Officer holds no authority in the matter to examine the reasonableness of lump-sum contribution in lieu of taxes agreed between the parties as well as to issue direction to enhance the contribution as well as to resubmit the proposal with enhanced compensation. In our view, the entire action on the part of Chief Executive Officer and officers subordinate to him to examine the agreement, and other related aspects as well as direction issued to the village panchayat to resubmit the proposal are *per se* illegal, without jurisdiction and authority vested with them. The entire action in this behalf on the part of respondents No. 4 and 5 was beyond their statutory powers and contrary to the procedure laid down under said Rules of 1961.

18. As discussed in the foregoing paras, Section 125 of said Act and said Rules of 1961 are complete code in itself in deciding the payment of lump-sum contribution by the factories in lieu of taxes. If the Standing Committee of the Zilla Parishad before whom such agreement is placed is of the view that the agreement arrived at in between the Gram Panchayat and the occupier of the factory is not in public interest or contrary to provisions of any rules or for any other reason, same should not be given sanction, it can record its view/objection in the form of its remark, while forwarding such agreement to the State Government through the Commissioner. Similarly, Commissioner can also record his comments as regards such agreement received by him while forwarding the same to the State Government as provided under Rule 6 of the said Rules, 1961. However, neither the Chief Executive Officer or Standing Committee of the Zilla Parishad nor the Commissioner vest with the powers to follow the course other than provided under Rule 6 of said Rules, 1961. It is ultimately for the State Government to consider the matter in its entirety while taking the decision and the Government can consider such remarks recorded by the Standing Committee and the comments, if any, recorded by the Commissioner. After examining the proposal and satisfying that the proposal is in order and in due compliance of all the rules and further satisfy itself after considering the remark/comments, if any, recorded by the Standing Committee of the Zilla Parishad and the Commissioner that agreement deserves to be sanctioned, then in that eventuality the State Government has to obtain the views of Chief Executive Officer of concerned Zilla Parishad before taking final decision in the matter. Only after considering the views of the Chief Executive Officer, the Government is expected to take the final decision

in the matter. If the State Government finds that the agreement arrived at between the Panchayat and the factory is not in the public interest or is not in accordance with Rule 10, it can always refuse to grant sanction. But such powers are required to be exercised by the State Government and not by Chief Executive Officer of the Zilla Parishad. Under the scheme very limited role has been provided to the Chief Executive Officer, i.e. to place such agreement together with the documents before the Standing Committee within the period prescribed and thereafter to forward the same with the remarks of Standing Committee to the Commissioner, who in turn, to forward the proposal to the State Government with his own comments.

19. We, therefore, find the entire action on the part of respondents No. 4 and 5 which is impugned in this petition is *per se* illegal, without jurisdiction and authority vested with them and contrary to the relevant provisions of said Act and said Rules of 1961 as well as rules applicable in the matter and, therefore, same is liable to be quashed and set aside. Accordingly, we allow the petition in terms of prayer clause (e) and (f) of the petition. Chief Executive Officer of the Zilla Parishad i.e. respondent No. 4 is directed to forthwith forward the proposal received from respondent No. 6 – Gram Panchayat along with the necessary documents and the remarks of the Standing Committee to the Divisional Commissioner, who, in turn forward the same to the State Government along with his comments. On receipt of such proposal, the State Government would take into consideration the provisions of the said Act and the said Rules of 1961 and take appropriate decision in the matter as expeditiously as possible, preferably within three months from the date of receipt of such proposal. In the meantime, the interim order

operating shall remain in force on condition that the petitioner shall deposit the amount as per the agreement with the respondent No. 6 – Gram Panchayat, if not already deposited. So far as the liability of payment of taxes of the period subsequent to the subject matter of the agreement, the respondent No. 6 will be at liberty to take appropriate steps to enforce its right to recover the amount in accordance with law. Needless to observe that, interim order shall operate and remain in force till the decision by the State Government and payment of liability of petitioner shall be subject to decision of the State Government.

20. Rule made absolute in the aforesaid terms with no order as to costs.

[V. L. ACHLIYA]
JUDGE

[A. V. NIRGUDE]
JUDGE