

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (PIL) No. 33 of 2015**

Mohammad Siraj Jindran S/o Late Kamaluddeen Jindran Aged About 37 Years R/o
New Bus Stand, Main Road, Bajrang Nagar, Takhatpur, District Bilaspur, (Chhattisgarh)
---- **Petitioner**

Versus

1. State Of Chhattisgarh Through Secretary, Urban Administration & Development Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, (Chhattisgarh)
2. The Director, Urban Administration & Development, 4th Floor, Indrawati Bhawan, Naya Raipur, District Raipur, (Chhattisgarh)
3. The Assistant Director, Urban Administration & Development, 4th Floor, Indrawati Bhawan, Naya Raipur, District Raipur, (Chhattisgarh)
4. Chief Municipal Officer, Municipal Council Takhatpur, District Bilaspur, (Chhattisgarh)
5. Sitaram Sahu S/o Late Tungan Ram Sahu Aged About 54 Years R/o Takhatpur, District Bilaspur, (Chhattisgarh)
6. Prakash Dewangan, S/o Shiv Kumar Dewangan, Aged About 23 Years R/o Dewanganpara, Takhatpur, District Bilaspur, (Chhattisgarh)
7. Vinod Kumar Dewangan S/o Late D.P. Dewangan, Aged About 35 Years R/o Dewanganpara, Takhatpur, District Bilaspur, (Chhattisgarh)
8. Shaktipal Ratre S/o Saulal Ratre Aged About 31 Years R/o Ward No. 4, Mission Compound, Municipal Council Takhatpur, Takhatpur, District Bilaspur, (Chhattisgarh)
9. Jwala Prasad Gupta S/o Manoharlal Gupta R/o Ward No. 9, Municipal Council Takhatpur, District Bilaspur, (Chhattisgarh)
10. Municipal Council Takhatpur, Through The Chief Municipal Officer, Takhatpur, District Bilaspur, (Chhattisgarh)
11. The Station House Officer, Police Station Takhatpur, District Bilaspur, (Chhattisgarh)
12. Umesh Shukla S/o D. R. Shukla, Chief Municipal Officer, Municipal Council Takhatpur, District Bilaspur, (Chhattisgarh)

---- **Respondents**

For Petitioner	: Shri Prateek Sharma, Advocate.
For Respondent/State	: Shri Y.S. Thakur, Additional Advocate General.
For Respondents No.6 to 9	: Shri Sushil Dubey, Advocate.
For Respondent No.10	: Shri Manoj Paranjpe, Advocate.
For Respondent No.12	: Shri Sunil Otvani, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Sanjay Agrawal, J.

Order on Board

Per Deepak Gupta, Chief Justice

24/01/2017

1. By means of this public interest litigation, the Petitioner has sought to highlight various irregularities and criminal acts whereby shops and plots belonging to Municipal Council, Takhatpur have been allotted to Respondents No. 5 to 9 in an illegal manner and in total violation of the orders of the State Government.

2. Briefly stated facts of the case are that on 9.11.2012, Municipal Council, Takhatpur prepared a proposal for auction of shops and plots belonging to Municipal Council, Takhatpur. Pursuant to such proposal, advertisement were issued in a regional daily newspaper called 'Deshbandhu'. Auction was conducted and plots and shops were allotted to the highest bidders. Thereafter, approval of the State Government was sought but the Director, Urban Administration did not accept the proposal and after due consideration, the same was rejected on 27.02.2013. Thereafter, vide an undated note which is on file, it was shown that the proposal had been accepted by the State Government. This note-sheet reads as follows:

“भूखण्ड नीलामी स्वीकृति हेतु शासन को भेजा गया था परंतु शासन द्वारा उक्त नीलामी को अमान्य कर दिया गया है । अतः परिषद को जानकारी देने हेतु आदेशार्थ प्रस्तुत ।

GMO

सही /—

उपरोक्तानुसार उक्त भूखंड नीलामी प्रकरण शासन द्वारा अमान्य कर दिया गया है । अतः जानकारी प्रस्तुत ।

आदेशार्थ

सही /—

परिषद में रखें”

3. In this note, in the word 'अमान्य' the first letter 'अ' was deleted showing it as 'मान्य' which means that the proposal has been approved and accepted by the State Government. Thereafter, this proposal was put up and approved on 24.02.2014 and then the lease deeds were executed by the Municipal Council, in favour of Respondents No. 5 to 8. Thereafter, the writ petition was filed.

4. We had issued notice of this writ petition. We had, after hearing the parties, passed the following order on 17.01.2017:

“Reply has not been filed by State or the Municipal Council, Takhatpur. It is stated by counsel for the parties that they are not controverting the factual averments made in the writ petition.

Shri Sunil Otwani, counsel for the Respondent No. 12 submits that he has instructions to appear on behalf of Respondents No. 4 and 10 also and shall be filing Vakalatnama on their behalf. He states that the Municipal Council has instituted a suit for cancellation of the lease deed.

In the present case, prima facie we are of the view that the lease deed is based on fraud. The property in question were auctioned and proposal was sent to the State Government for approval. The State Government rejected the proposal of the Municipal Council vide letter dated 27.02.2013. Thereafter, a note was prepared in which first it was mentioned that the State Government had rejected the proposal of the Municipal Council but later on the first letter of the word "amanya" was scored out and it was read as "manya" meaning that there was an approval of the State Government.

The Secretary of the Municipal Council, Takhatpur shall file an affidavit within a period of one week from today stating who has signed this note on behalf of the Municipal Council. He shall give the complete details and also inform us whether this person is still working in Municipal Council, Takhatpur and if he is not working there, the Secretary shall inform us where he is working presently.

The Respondent-allottees have not filed their replies though one year has elapsed.

At the request of learned counsel for the Respondents, one week further time is granted to file reply. We make it clear that we will not grant any further time to file reply. In case, no reply is filed, we shall proceed to decide the case on the basis of averments made in the petition.

In the meantime, the Respondents are restrained from making any further development in the plots allotted to them.

List the matter on 24.01.2017.”

5. Today, reply has been filed by all the Respondents except the State and Respondent No. 5. Respondent No. 5 has been served but is not represented. We have considered the replies and therefore propose to dispose of this public interest litigation.

6. The reply filed by the Municipal Council itself reveals shocking facts. According to Municipal Council, the auction notice was published in newspaper 'Deshbandhu'. According to Municipal Council itself, this paper is not widely circulated in Bilaspur District wherein Takhatpur Municipal Council is situated. In fact, it was widely circulated in District Korla and Mumbai but not in Takhatpur or District Bilaspur. Why was the advertisement not published in a newspaper having circulation in the area? This question remains unanswered. There is no doubt that the auction was held and in this auction Respondents No. 5 to 9 were the highest bidders. The question is whether this auction is legal and valid or not. Property of the Municipal Council cannot be transferred without the permission of the State Government in terms of Section 109 of the Chhattisgarh Municipalities Act. In this case, Director of the Urban Administration Department, State of Chhattisgarh has specifically rejected the proposal on 27.02.2013. Therefore, there is no question of any lease deed being executed in favour of Respondents No. 5 to 9/successful bidders.

7. The stand of the Municipal Council is that lease deeds have been executed only in favour of Respondents No. 5 to 8 and there is no allotment and agreement in favour of Respondent No. 9.

8. In this behalf, we may make reference to certain allegations made in the petition. In para 8.6, it has been clearly stated that one of the allottee-Respondent No. 8 Shakti Pal Ratre is the son of Smt. Shanta Bai Ratre who was Councillor of Municipal Council, Takhatpur for the period 2009-2014. In para 8.7, it has been specifically averred that Respondent No. 5-Sitaram Sahu is father-in-law of Nain Lal Sahu who was also a Councillor in Ward No. 3 of Municipal Council, Takhatpur during this period. Similarly, it is alleged that Prakash Dewangan-Respondent No. 6 is the son of Shri Shiv Kumar Dewangan who was the Councillor of Municipal Council, Takhatpur, elected from Ward No. 11. He has also signed the agreement as one of the witnesses.

9. In para 8.8, it has been alleged that Respondent No. 7-Vinod Dewangan is relative of Shri Ajay Dewangan, the then President of Municipal Council, Takhatpur for the year 2009-2014 and it is also stated that he is relative of Shiv Kumar Dewangan who is Councillor.

10. Though reply to these paragraphs have been filed and there is general denial, there is no specific denial to these allegations. Out of four persons, it has been found out that at least three persons are in specific relationship. Vinod Dewangan is stated to be relative of Councillor Shri Ajay Dewangan. These averments have not been denied. Therefore, out of four allottees, three are close relatives of the elected office bearers. One is a relative. Unfortunately, in this case the matter does not end only at the extent of favoritism and nepotism. Favoritism and nepotism may have been exercised by the office bearers by ensuring that advertisement is published in a newspaper more suitable to them but what is extremely disturbing in this case is that after the State Government rejected the proposal and sent the file back, somebody either hid the paper or manipulated the paper or forged the letter of the State Government rejecting the proposal and prepared a notesheet that the proposal has been accepted by the State Government. This is nothing but an act of forgery. It may also amount to commission of other offences like cheating, criminal breach of trust, forgery, etc. and that will require proper police investigation.

11. It would be apposite to mention that the law is now well settled that the public bodies cannot deal with public properties as per their own whims and fancies. No doubt, the Government in a welfare State has the power to give a large number of benefits such as jobs, contracts, licences, quota etc. However, wherever the Government or public bodies deals with grant of largesse, they must act in a non-discriminatory manner. Reference in this behalf may be made to *Ramana Dayaram Shetty v. International Airports Authority of India & Others* {(1979) 3 SCC 489} wherein the Apex Court held as follows:

"12..... The activities of the Government have a public element and, therefore, there should be fairness and equality. The State need not enter into any contract with anyone, but if it does so, it must do so fairly without discrimination and without unfair procedure." This proposition would hold good in all cases of dealing by the Government with the public, where the interest sought to be protected is a privilege. It must, therefore, be taken to be the law that where the Government is dealing with the public, whether by way of giving jobs or entering into contracts or issuing quotas or licences or granting other forms of largess, the Government cannot act arbitrarily at its sweet will and, like a private individual, deal with any person it pleases, but its action must be in conformity with standard or norms which is not arbitrary, irrational or irrelevant. The power or discretion of the Government in the matter of grant of largess including award of jobs, contracts, quotas, licences etc., must be confined and structured by rational, relevant and non-discriminatory standard or norm and if the Government departs from such standard or norm in any particular case or cases, the action of the Government would be liable to be struck down, unless it can be shown by the Government that the departure was not arbitrary, but was based on some valid principle which in itself was not irrational, unreasonable or discriminatory."

12. In *M/s. Kasturi Lal Lakshmi Reddy, Represented by its Partner Shri Kasturi Lal, Ward No. 4 Palace Bar, Poonch, Jammu & Kashmir v. State of Jammu & Kashmir and Another* {(1980) 4 SCC 1} dealing with the same issue, the Apex Court held as follows:

"14. Where any governmental action fails to satisfy the test of reasonableness and public interest discussed above and is found to be wanting in the quality of reasonableness or lacking in the element of public interest, it would be liable to be struck down as invalid. It must follow as a necessary corollary from this proposition that the government cannot act in a manner which would benefit a private party at the cost of the State; such an action would be both unreasonable and contrary to public interest. The government, therefore, cannot, for example, give a contract or sell or lease out its property for a consideration less than the highest that can be obtained for it, unless of course there are other considerations which render it reasonable and in public interest to do so. Such considerations may be that some directive principle is sought to be advanced or implemented or that the contract or the property is given not with a view to earning revenue but for the purpose of carrying out a welfare scheme for the benefit of a particular group or section of people deserving it or that the person who has offered a higher consideration is not otherwise fit to be given the contract or the property. We have referred to these considerations only illustratively, for there may be an infinite variety of considerations which may have to be taken into account by the

government in formulating its policies and it is on a total evaluation of various considerations which have weighed with the government in taking a particular action, that the court would have to decide whether the action of the government is reasonable and in public interest. But on a basic principle which must guide the court in arriving at its determination on this question is that there is always a presumption that the governmental action is reasonable and in public interest and it is for the party challenging its validity to show that it is wanting in reasonableness or is not informed with public interest. This burden is a heavy one and it has to be discharged to the satisfaction of the court by proper and adequate material. The Court cannot lightly assume that the action taken by the government is unreasonable or without public interest because, as we said above, there are a large number of policy considerations which must necessarily weigh with the government in taking action and therefore the court would not strike down governmental action as invalid on this ground, unless it is clearly satisfied that the action is unreasonable or not in public interest. But where it is so satisfied, it would be the plainest duty of the court under the Constitution to invalidate the governmental action. This is one of the most important functions of the court and also one of the most essential for preservation of the rule of law. It is imperative in a democracy governed by the rule of law that governmental action must be kept within the limits of the law and if there is any transgression, the court must be ready to condemn it. It is a matter of historical experience that there is a tendency in every government to assume more and more powers and since it is not an uncommon phenomenon in some countries that the legislative check is getting diluted, it is left to the court as the only other reviewing authority under the Constitution to be increasingly vigilant to ensure observance with the rule of law and in this task, the court must not flinch or falter. It may be pointed out that this ground of invalidity, namely, that the governmental action is unreasonable or lacking in the quality of public interest, is different from that of mala fides though it may, in a given case, furnish evidence of mala fides.

15. The second limitation on the discretion of the government in grant of largess is in regard to the persons to whom such largess may be granted. It is now well settled as a result of a decision of this Court in *Ramanna D Shetty v. International Airport Authority of India*, that the government is not free, like an ordinary individual, in selecting the recipients for its largess and it cannot choose to deal with any person it pleases in its absolute and unfettered discretion. The law is now well established that the government need not deal with anyone, but if it does so, it must do so fairly without discrimination and without unfair procedure. Where the government is dealing with the public whether by way of giving jobs or entering into contracts or granting other forms of largess, the government cannot act arbitrarily at its sweet will and, like a private individual, deal with any person it pleases, but its action must be in a conformity with some standard or norm which is not arbitrary, irrational or irrelevant. The governmental action must not be arbitrary or capricious, but must be based on some principle which meets the test of reason and relevance. This

rule was enunciated by the court as a rule of administrative law and it was also validated by the court as an emanation flowing directly from the doctrine of equality embodied in Article 14. The court referred to the activist magnitude of Article 14 as evolved in *E.P.Royappa v. State of Tamil Nadu*⁴ and *Maneka Gandhi case*³ and observed that it must follow as a necessary corollary from the principle of equality enshrined in Article 14 that though the State is entitled to refuse to enter into relationship with anyone, yet if it does so, it cannot arbitrarily choose any person it likes for entering into such relationship and discriminate between persons similarly circumstanced, but it must act in conformity with some standard or principle which meets that test of reasonableness and non-discrimination and any departure from such standard or principle would be invalid unless it can be supported or justified on some rational and non-discriminatory ground (SCC p. 512, para 21)

This decision has reaffirmed the principle of reasonableness and non-arbitrariness in governmental action which lies at the core of our entire constitutional scheme and structure. "

13. In *State of Haryana & Others v. Jage Ram & Others* {(1983) 4 SCC 556}

which was a case relating to auction of liquor vend, the Apex Court dealing with the issue as to what is meant by "publicity" held as follows:

"8..... When a rule requires 'publicity' to be given to an auction-sale, what is necessarily implied is that due steps must be taken to give sufficiently advance intimation of the intended sale and its material terms to the members of the public or, at least, to that section of the public which normally engages in the kind of business which is the subject-matter of the auction-sale. Even the five special invitees would have found it difficult to come prepared to take part in resale which was held on 23rd May. They were not invited to a wedding feast. They were invited to attend the resale of a liquor vend and it is well-known that a certain amount has to be paid by the successful bidder on the fall of the hammer. We are also unable to appreciate that the Excise authorities of the Government of Haryana should have picked and chosen some five particular persons as recipients of the notice of reauction. How their names transpired and what is their particular status, respectability and standing in the liquor trade, are matters on which no light is thrown. There is no material before us on which to doubt the integrity of the authorities who were connected with the reauction. But their conduct must be above suspicion."

14. In *Sachidanand Pandey & Another v. State of West Bengal & Others*

{(1987) 2 SCC 295}, similar question arose and the Apex Court dealing with the issue as to how the Government must deal with the public property held as follows:

"40. On a consideration of the relevant cases cited at the bar the following propositions may be taken as well established. State-owned or public-owned property is not to be dealt with at the absolute discretion of the executive. Certain precepts and principles have to be observed. Public interest is the paramount consideration. One of the methods of securing the public interest, when it is considered necessary to dispose of a property, is to sell the property by public auction or by inviting tenders. Though that is the ordinary rule, it is not an invariable rule. There may be situations where there are compelling reasons necessitating departure from the rule but then the reasons for the departure must be rational and should not be suggestive of discrimination. Appearance of public justice is as important as doing justice. Nothing should be done which gives an appearance of bias, jobbery or nepotism."

15. In *Padma v. Hiralal Motilal Desarda & Others* {(2002) 7 SCC 564}, the Apex Court was dealing with the question as to how allotment and auction of flats and plots has to be done, the Apex Court observed as follows:

"34. There is yet another angle of looking at the propriety of the questioned bulk sale of land by CIDCO and the manner in which it was done. The land acquired and entrusted to CIDCO cannot just be permitted to be parted with guided by the sole consideration of money-making. CIDCO is not a commercial concern whose performance is to be assessed by the amount it earns. Its performance would be better assessed by finding out the number of needy persons who have been able to secure shelter through CIDCO and by the beauty of township and quality of life for people achieved by CIDCO through its planned development schemes. So long as such objectives are fulfilled CIDCO's operation on 'No-profit-No Loss' basis cannot be found fault with. There should have been no hurry on the part of CIDCO in disposing of the balance land and that too guided by the sole consideration of earning more money. Even that object CIDCO has not been able to achieve for at the end it has parted with land at a price less than Rs. 1500 per square meter-the reserved price. Even if a sale of left-over land was a felt-necessity it should have satisfied at least two conditions: (i) a well-considered decision at the highest level; and (ii) a sale by public auction or by tenders after giving more wide publicity than what was done so as to attract a larger number of bidders."

16. In *Akhil Bhartiya Upbhokta Congress v. State of Madhya Pradesh & Others* {(2011) 5 SCC 29}, the Apex Court was dealing with an issue with regard to the legality of the allotment of land. After discussing the entire law, the Apex Court held as follows:

"65. What needs to be emphasized is that the State

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

65. We may add that there cannot be any policy, much less, a rational policy of allotting land on the basis of applications made by individuals, bodies, organizations or institutions de hors an invitation or advertisement by the State or its agency/ instrumentality. By entertaining applications made by individuals, organisations or institutions for allotment of land or for grant of any other type of largesse the State cannot exclude other eligible persons from lodging competing claim. Any allotment of land or grant of other form of largesse by the State or its agencies/ instrumentalities by treating the exercise as a private venture is liable to be treated as arbitrary, discriminatory and an act of favoritism and/or nepotism violating the soul of the equality clause embodied in Article 14 of the Constitution.

This, however, does not mean that the State can never allot land to the institutions/organisations engaged in educational, cultural, social or philanthropic activities or are rendering service to the Society except by way of auction. Nevertheless, it is necessary to observe that once a piece of land is earmarked or identified for allotment to institutions/organisations engaged in any such activity, the actual exercise of allotment must be done in a manner consistent with the doctrine of equality. The competent authority should, as a matter of course, issue an advertisement incorporating therein the conditions of eligibility so as to enable all similarly situated eligible persons, institutions/ organisations to participate in the process of allotment, whether by way of auction or otherwise. In a given case the Government may allot land at a fixed price but in that case also allotment must be preceded by a wholesome exercise consistent with Article 14 of the Constitution."

17. In *Centre for Public Interest Litigation & Others v. Union of India & Others* {(2012) 3 SCC 1}}, dealing with doctrine of public trust, the Apex Court held as

thus:

"75. The State is empowered to distribute natural resources. However, as they constitute public property/national asset, while distributing natural resources, the State is bound to act in consonance with the principles of equality and public trust and ensure that no action is taken which may be detrimental to public interest. Like any other State action, constitutionalism must be reflected at every stage of the distribution of natural resources. In Article 39(b) of the Constitution it has been provided that the ownership and control of the material resources of the community should be so distributed so as to best sub-serve the common good, but no comprehensive legislation has been enacted to generally define natural resources and a framework for their protection. Of course, environment laws enacted by Parliament and State legislatures deal with specific natural resources, i.e., Forest, Air, Water, Coastal Zones, etc."

18. In *City Industrial Development Corporation v. Platinum Enterprises & Others* {(2015) 1 SCC 558}, the Apex Court, after referring to the entire law on the subject, held as follows:

"49. State and its agencies and instrumentalities cannot give largesse to any person at sweet will and whims of the political entities or officers of the State. However, decision and action of the State must be founded on a sound, transparent and well-defined policy which shall be made known to the public. The disposal of the government land by adopting a discriminatory and arbitrary method shall always be avoided and it should be done in a fair and equitable manner as the allotment on favouritism or nepotism influences the exercise of discretion. Even assuming that if the rule or regulation prescribes the mode of allotment by entertaining individual application or by tenders or competitive bidding, the rule of law requires publicity to be given before such allotment is made. CIDCO authorities should not adopt a pick and choose method while allotting government land.

Furthermore, this Court has already stated in *Akhil Bhartiya Upbhokta Congress v. State of M.P.*⁹ that the State or its agencies or instrumentalities must give largesse founded on a sound, transparent discernible and well-defined policy, which should be made known to the public at large and further held that a rational policy of allotting land on the basis of individual applications cannot de hors an invitation or advertisement by the State or its instrumentality, bringing it to the knowledge of public at large so that the eligible persons should not be excluded from lodging their competitive claims."

19. In *Lok Prahari v. State of U.P. & Others* {AIR (2016) SC 3537} the Apex Court dealing with allotment of government bungalows held as under:

"43. So far as allotment of bungalow to private trusts or societies are concerned, it is not in dispute that all those bungalows were allotted to the societies/trusts/organizations at the time when there was no provision with regard to allotment of government bungalows to them and therefore, in our opinion, the said allotment cannot be held to be justified. One should remember here that public property cannot be disposed of in favour of any one without adequate consideration. Allotment of government property to some one without adequate market rent, in absence of any special statutory provision, would also be bad in law because the State has no right to fritter away government property in favour of private persons or bodies without adequate consideration and therefore, all such allotments, which have been made in absence of any statutory provision cannot be upheld. If any allotment was not made in accordance with the statutory provision at the relevant time, it must be discontinued and must be treated as cancelled and the State shall take possession of such premises as soon as possible and at the same time, the State should also recover appropriate rent in respect of such premises which had been allotted without any statutory provision. "

20. We proceed to decide the present case in the light of the law laid down in the aforesaid judgments.

21. From the facts which are reflected in the present case, it is more than apparent that there has been manipulation from the first stage itself. The advertisement was not published in a newspaper having wide circulation or the highest circulation in Takhatpur or Bilaspur but in a newspaper which had much less circulation in District Bilaspur but higher circulation in District Korla and surprisingly in the city of Mumbai which had no connection with the auction. It cannot be said to be a mere coincidence that out of the four allottees, three are close relatives and one is only a relative of the elected members of the Council and in fact one of them was related to the then President of Municipal Council.

22. The State Government rejected the proposal of the Municipal Council. Thereafter, this rejection letter dated 27.02.2013 was not dealt with for sometime. An undated note which has been quoted hereinabove, clearly reflects that the note was first prepared showing that the proposal had not been accepted by the State Government. Thereafter the word 'अ' was scored off and the word 'अमान्य' which means rejection was changed to 'मान्य' meaning accepted. This is a forgery

in official records. In this writ proceedings, we cannot decide who has committed this forgery but this is a matter which will be required to be investigated by the police.

23. As far as the legality of the lease agreements entered into by the Municipal Council Takhatpur with Respondents No. 5 to 8 are concerned, we have no hesitation in coming to the conclusion that these lease agreements are totally void being based on forgery. They are the result of fraud committed by the office bearers of the Municipal Council upon the Municipal Council itself. Connivance of the elected members cannot be ruled out. The fraud is writ large and therefore, we in exercise of our writ jurisdiction quash all the lease agreements entered into by the Municipal Council with the allottees/Respondent No. 5 to 8. Respondent No. 5 to 8 are directed to hand back the possession of the shops/plots to the Municipal Council within a period of 30 days from today. Respondents No. 5 to 8 shall not be entitled to any compensation because we are clearly of the view that they have got the allotment in their favour through fraudulent means. In case the Respondents do not hand back the possession voluntarily, the Municipal Council may take possession of the same.

24. Learned counsel for the Respondents No. 5 to 9 states that the forgery may have been committed by the officials but not by them. We are not impressed with this submission. Who has got this benefit of this fraudulent act? It is the allottees who were the close relatives to the office bearers, therefore, the allottees cannot urge that they should not suffer. We in this case are refraining from fixing the liability on any official. We do not know who is responsible for this forgery. We would not even like to give any indication one way or the other. This matter needs to and must be investigated by the police. We therefore in addition to quashing all the lease agreements executed between the Municipal Council, Takhatpur and the Respondents No. 5 to 8, direct that the Crime Investigation Department of the police shall get an investigation conducted in the matter.

- 25.** We direct the Inspector General of Police, (C.I.D) to monitor the case and ensure that the investigation is done properly and FIR in this case is registered within a period of 30 days and thereafter, investigation should be carried out and it should be ascertained who wrote the note which we have quoted hereinabove, who made alterations in the note and at whose instance these things were done. This investigation be completed within a period of six months from the registration of the FIR and thereafter, the criminal case shall proceed in accordance with law.
- 26.** The security deposit be refunded back to the Petitioner as this petition has been filed as Public Interest Litigation.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay Agrawal)
JUDGE

Anu