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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5787 OF 2024

1] Pancham Acquaculture Farms Ltd.	]	
A Joint Sector Company,	]	
Through its Director namely,	]	
Shri Ajitsinh B. Patil,	]	
Age Adult. Occ: Business, having registered	]	
office at 03-B, Mittal Tower, Nariman Point,	]	
Mumbai.	]	
	]	
2] Shri Arun Raghunath Patil	]	
Age: Adult, Occu: Business, R/o. A-4-2-1,	]	
New Palm Beach Co-operative Housing	]	
Society Ltd., Sector 4, Nerul,	]	
Navi-Mumbai 400 706	]	 Petitioners.

V/s.

1] The State of Maharashtra	]	
Through its Additional Chief Secretary,	]	
Revenue and Forest Department,	]	
Mantralaya, Mumbai	]	
	]	
2] Urja Foods & Agro Pvt. Ltd.,	]	
having its registered office at	]	
Nakshatra Residence, Chitra C-2,	]	
(101-104), Pune-Nashik Highway,	]	
A/p- Manchar, Tq. Ambegaon,	]	
Dist. Pune.	]	
	]	
3] The Collector, Palghar	]	 Respondents.

Mr. A. A. Kumbhakoni, Senior Advocate with Mr. Manoj Badgujar and Mr. Akshay P. Shinde, Advocates for the petitioners.

Dr. Birendra B. Saraf, Advocate General with Mr. P.P. Kakade, Government Pleader and Mr. S.P. Kamble, Assistant Government Pleader for the respondent nos. 1 and 3.

Mr. A.V. Anturkar, Senior Advocate with Mr. Tanaji Mhatugade for the respondent no.2.

CORAM : A.S. CHANDURKAR & RAJESH S. PATIL, JJ

The date on which the arguments were heard : 25TH SEPTEMBER, 2024.

The date on which the Judgment is pronounced : 4th OCTOBER, 2024.

JUDGMENT : [Per A.S. Chandurkar, J.]

1] Rule. Rule made returnable forthwith and heard learned counsel for the parties.

The petitioner no.1, a Joint Sector Company through its Director along with petitioner no.2 has filed this writ petition under Article 226 of the Constitution of India raising a challenge to the Government Resolution dated 13/03/2024 issued by the Revenue and Forest Department of the State Government by virtue of which an area admeasuring 343 Hectares 23.40 Ares has been allotted to the 2nd respondent Urja Foods & Agro Private Limited (*for short, "UFAPL"*) for a duration of thirty years on lease. This allotment is for enabling UFAPL to undertake aquaculture activities. Besides aforesaid challenge, the petitioners also pray that a direction to be issued to the Revenue and Forest Department to extend the lease period of the area that was initially allotted to the petitioner no.1, Pancham

Acquaculture Farms Limited (*for short, "PAFL"*) on 21/12/1991 for a period of twenty years. An alternative prayer for grant of compensation on the ground that PAFL could not undertake aquaculture activities during the period of lease for reasons beyond its control is also made.

2] Mr. A. A. Kumbhakoni, the learned Senior Advocate for PAFL submitted that initially on 21/12/1991 a lease agreement was entered into between the Governor of Maharashtra through the Collector, Thane as the lessor with the Development Corporation of Konkan Limited (*for short, "DCKL"*) as a lessee and PAFL as a sub-lessee for the area admeasuring 600 Hectares and 14 Ares. Pursuant thereto on 27/03/1992, possession of 740 acres out of total of 1,500 acres was handed over by DCKL to PAFL. The possession of the remaining land admeasuring about 760 acres was handed over in January, 2002. It was submitted that after taking over possession of the portion of the leased area, the activities relating to aquaculture could not be effectively continued in view of pendency of proceedings before the Supreme Court in the case of *S. Jagannath Vs. Union of India, 1996 INSC 1466 decided on 11/12/1996*. It was submitted that in view of

various restraint orders, PAFL could not utilize the leased area for the purpose for which it was allotted. It was pointed out that the request for extension of the period of lease was made prior to the expiry of the lease period by virtue of the application made on 03/10/2017. No decision thereon was taken despite various representations made to the concerned authorities. Recommendations were made by the Regional Deputy Commissioner of Fisheries on 30/07/2021 as well as by the Tahasildar and Executive Magistrate, Palghar favouring such extension. In the said recommendations, it was stated that PAFL did not commit any breach of the conditions imposed and that extension of the period of lease was recommended. Ignoring the request for extension of the lease, a portion of the area developed by PAFL to the extent of 343 Hectares and 23.40 Ares came to be allotted to UFAPL on 13/03/2024 without any public auction. The learned Senior Advocate referred to the Coastal Aquaculture Guidelines and especially Clause 4.9 thereof to submit that in accordance with the same, PAFL was entitled for extension of the lease period. A similar such extension came to be granted to M/s. King Prawns Limited on 22/10/2014 for the adjoining lands. Attention was also invited to the

Government Resolution dated 23/11/2001 wherein the policy for granting lease for aquaculture purposes was laid down. It was incumbent upon the said Authorities to have followed this policy while making any further allotment especially in favour of UFAPL. Reliance was also placed on the provisions of the Coastal Aquaculture Authority Act, 2005 to submit that the allotment made in favour of UFAPL was not in accordance with law. Since PAFL was questioning the decision making process itself, this Court ought to interfere in exercise of writ jurisdiction considering the manner in which the extension of the lease period was denied to it and allotment was made in favour of UFAPL.

3] Dr. Birendra Saraf, the learned Advocate General appearing for the 1st and 3rd respondents opposed the prayers made in the writ petition. At the outset, he submitted that PAFL was seeking enforcement of contractual obligations arising out of the agreement of lease dated 21/12/1991. Various disputed questions would be required to be adjudicated before considering the prayers made in the writ petition. It was pointed out that PAFL was merely a sub-lessee of DCKL which was the principal lessee. The right of extension

was being claimed by the sub-lessee in the present proceedings without impleading the principal lessee. Referring to the extension clause in the agreement dated 21/12/1991, it was submitted that the right of extension was available only to the lessee and not a sub-lessee. There was no right whatsoever with PAFL to seek any extension especially in the light of the fact that the lease granted to it for a period of thirty years had already expired on 20/12/2021. After that date, it was not open for PAFL to contend that it was entitled for extension of the lease period. The grant of 248 Hectares 970 Ares land was on fresh terms as per Government Resolution dated 13/03/2024. In absence of any legal right whatsoever with PAFL to seek extension of the lease period, it was not entitled to any relief whatsoever.

4] Mr. Anil Anturkar, the learned Senior Advocate for UFAPL also opposed the prayers made in the writ petition. He submitted that at the end of the lease period on 20/12/2021, PAFL lost its right to continue to occupy the leasehold area. He questioned the status of PAFL to occupy the leased area after 20/12/2021 when the initial lease had expired till 13/03/2024 when a portion of the area leased

earlier was again granted to it. It was then submitted that though it was a grievance of PAFL that by virtue of the orders passed by the Supreme Court it could not utilize the leasehold land since 1995-1996, such grievance was being raised by it only in October, 2017. In absence of any vested right with PAFL to seek extension of the lease period, no writ of mandamus could be claimed by it. In fact, PAFL was merely seeking to espouse its private contractual right. No relief could be granted to it in the light of the judgment of the Supreme Court in *Army Welfare Education Society vs. Sunil Kumar Sharma and others*, 2024 SCC OnLine SC 1683. At the highest, it could be stated that PAFL had only a legitimate expectation that its request for extension of the lease period could be considered. As regards absence of any tender process being adopted for granting of area admeasuring 343 Hectares and 23.40 Ares to UFAPL, it was submitted that the allotment made in favour of PAFL to the extent of the area admeasuring 248 Hectares and 970 Ares was also without issuance of any tender. PAFL was also the beneficiary of the same process. Thus it was submitted that in the absence of any legal right whatsoever, no relief could be granted to PAFL and the writ petition was liable to be

dismissed.

5] We have heard the learned counsel for the parties at length and with their assistance we have perused the documents on record. Having given thoughtful consideration to the rival submissions, we are of the view that PAFL is not entitled to any discretionary relief under Article 226 of the Constitution of India.

PAFL has sought two-fold reliefs in this writ petition. It seeks to challenge the grant of lease of area to the extent of 343 Hectares and 23.40 Ares in favour of UFAPL and thereafter prays that it be granted an extension of lease for the entire area to the extent of 600 Hectares and 14 Ares. The grant of lease for undertaking activities of prawn culture is presently governed by the policy of the State Government by virtue of Government Resolution dated 23/11/2001. The DCKL is the principal lessee while the State Government is the lessor. The terms of the initial lease-deed dated 21/12/1991 indicate that any future extension of the lease was to be made with the consent of the principal lessee, DCKL. Keeping these aspects in mind, the entitlement of PAFL to the reliefs claimed would have to be considered. We may state that in this regard, the writ Court would be more concerned with

the decision making process adopted by the State authorities rather than the correctness of the actual decision taken. As a lessor, the State is entitled to decide whom to lease its lands provided the same has been done in fair and transparent manner.

6] At the outset, we may consider the prayer for extension of lease as made by PAFL for the reason that if PAFL makes out a case for grant of this prayer, the challenge to the grant of lease to UFAPL would be required to be gone into. However, if PAFL is not found entitled to such relief, the prayer for cancelling the lease granted to UFAPL would be rendered academic as no consequential relief could be granted to PAFL. Prayer clause (c) in the writ petition reads as under :-

“(c) That this Hon’ble Court be pleased to direct the first respondent to extend the lease period of the land in issue allotted to the petitioners for a further period of twenty years on account of reasons mentioned in the applications at Exhibits J & L), which will be in conformity with decision taken in respect of the lease extension proposal of Kings Prawns Pvt. Ltd. (Exhibit-I).”

. In this regard, it can be seen from the record that the duration of

the lease initially granted to PAFL on 21/12/1991 was for a period of thirty years and the same was to come to an end on 20/12/2021. On 13/10/2017, PAFL made an application seeking extension of the said lease in respect of the entire area admeasuring 600 Hectares 14.10 Ares. The said issue was under consideration and on 24/05/2021, the Revenue and Forest Department sought an opinion in this regard from the DCKL. The matter was considered by DCKL and in its communication dated 26/08/2021, it stated that since the inception of the lease granted to PAFL, no benefit had accrued to DCKL. It was running in losses and its share value was zero. As per the letter issued by the Company Secretary on 05/05/2018, DCKL had to suffer a loss of Rs.81,90,000/-. The loss till date was Rs.90,00,000/-. It therefore opined that the entire leasehold area of 600 Hectares be immediately taken back from PAFL and the investment to the extent of Rs.37,00,000/- made by DCKL be also returned.

. This report of DCKL was considered by the Ministry of Industries, Power and Labour. It observed on 15/10/2021 that the amounts due from PAFL be examined and an opportunity be given to it to clarify its position. It was thereafter resolved to take back

possession of 343 Hectares 23.40 Ares land while permitting PAFL to retain 248 Hectares 9.70 Ares land for a further period of thirty years. This was subject to various terms and conditions indicated in the Government decision dated 13/03/2024.

7] The material on record indicates that the application made by PAFL on 13/10/2017 was taken into consideration and in the light of the fact that DCKL as the principal lessee was desirous of seeking recovery of its dues, extension of lease only for 248 Hectares 9.70 Ares came to be granted. The extension of lease granted to M/s. Kings Prawns Private Limited cannot be the basis for PAFL to seek a similar extension in the light of the fact that PAFL is not similarly situated as M/s. Kings Prawns Private Limited. In any event, we find that in the matter of extension of the lease, the interest of the lessor which in the present case is the State Government is required to be kept in mind and its view is entitled to primacy. It is entitled to some free play in the joints in such matter. We do not find that there is any arbitrariness on the part of the State Government in granting extension of the lease to PAFL only to the extent of 343 Hectares 23.40 Ares. Hence, the relief sought by PAFL with regard to prayer clause (c) cannot be

granted.

8] Prayer clause (d) in the writ petition reads as under :-

“(d) Strictly in the alternative, that this Hon’ble Court be pleased to direct the first respondent to grant compensation to the petitioners in terms of pleading contained in Ground (H) of the present petition.”

. We are not inclined to consider this prayer in exercise of writ jurisdiction since various factual aspects would require adjudication before coming to a conclusion as to whether PAFL is entitled to receive compensation on the grounds raised by it. This claim being opposed by the State Government, adjudication of the same without recording evidence would not be possible. Hence, we are not inclined to consider this prayer in exercise of writ jurisdiction. PAFL is at liberty to pursue this prayer in the Civil Court.

9] Prayer clause (b) in the writ petition reads as under :-

“(b) That on perusal of the same, this Hon’ble Court by an appropriate writ, order and/or direction be pleased to quash and set aside the impugned Government Resolution dated 13th March 2024 (Exhibit-P), the same being violative of Article 14 of the Constitution of India.”

It is to be noted that on 13/03/2024, the Revenue and Forest Department issued two Government Resolutions. By the first Government Resolution, PAFL was granted an extension of lease for a period of thirty years in respect of area admeasuring 248 Hectares 09.70 Ares out of the total area of 600 Hectares 14.10 Ares land. PAFL had been initially granted the lease of the area admeasuring 600 Hectares 14.10 Ares on 21/12/1991. This lease expired on 20/12/2021. On 13/03/2024, by virtue of another Government Resolution, area admeasuring 343 Hectares 23.40 Ares land was allotted to UFAPL. This lease is also for a duration of thirty years on the terms and conditions laid down in Government Resolution dated 23/11/2001.

10] Before considering the contention raised on behalf of PAFL that UFAPL was not entitled to be allotted a portion of area from 600 Hectares 14.10 Ares land that was initially allotted to it, it would be necessary to examine as to whether there is any right in PAFL to seek extension of lease for the entire area. If such right is not found to enure in PAFL, it would not be in a position to contend that part of the

area could not have been allotted to another entity. It is seen from the record that with a view to promote prawn culture in the State, the Industries, Energy and Labour Department formed the DCKL. It was to act as a lessee of the Government to enable the leased areas to be used for promoting prawn culture along with joint sector companies. It was the principal lessee of the Government and was empowered to sub-lease areas to joint sector companies. The lease granted to PAFL indicates that at the expiry of the lease period of thirty years, the right of extension was with the lessee. There was no separate right conferred on the sub-lessee in that regard. The lease entered on 21/12/1991 with the PAFL came to an end in 20/12/2021. The material on record indicates that DCKL as the principal lessee was not inclined for justifiable reasons to seek renewal of the sub-lease of PAFL. Commercial considerations weighed with it while taking such decision in view of the fact that DCKL suffered losses pursuant to the initial grant of sub-lease in favour of PAFL. It was urged that the recommendations contained in the minutes of the meeting conducted by the Revenue and Forest Department in May 2021 were not taken into consideration while deciding not to extend the lease in favour of

PAFL. It is however seen from the record that DCKL by its communication dated 26/08/2021 clearly indicated the reasons why it was opposing the extension of such lease. The matter was thereafter considered by the Department of Industries, Power and Labour in September, 2021 and explanation on various relevant aspects was sought from PAFL. It is after considering all the relevant material that a decision was taken on 13/03/2024 to grant an extension of lease to PAFL only with regard to the area admeasuring 248 Hectares 09.70 Ares. We do not find that there has been any arbitrariness or irregularity in the matter while refusing to extend the lease for the entire area admeasuring 600 Hectares 14.10 Ares in favour of PAFL. Financial considerations brought on record by DCKL have been taken into consideration while taking such decision. In absence of the principal lessee agreeing to such extension for the entire area, we do not find that the decision not to extend the lease for the entire area in favour of PAFL deserves to be interfered with.

11] It is to be noted that the lease in favour of PAFL came to an end on 20/12/2021. Though in effect the Government Resolution dated 13/03/2024 continuing the lease in favour of PAFL in respect of area

to the extent of 248 Hectares 09.70 Ares states that it is an extension of the lease, it appears to be in the nature of a fresh grant of lease in favour of PAFL. The said Government Resolution does not refer to the period from 01/01/2022 to 13/03/2024 as being included in the fresh grant so as to treat the same as an extension of the earlier grant. The terms and conditions stipulated under Government Resolution dated 23/11/2001 are required to be complied with. It is thus clear that on 13/03/2024, the Revenue and Forest Department issued two separate Government Resolutions allotting separate areas to PAFL and UFAPL. It is true that the land allotted to UFAPL forms part of the total area that was initially granted to PAFL on 21/12/1991 but that aspect would not be very relevant in this context.

Once it is found that PAFL was not entitled to the extension of the period of lease for the entire area, there would be no reason for PAFL to challenge the grant of lease to UFAPL for a portion of that area. The State Government was entitled to take a fresh decision after considering the stand of the principal lessee, DCKL.

It was also urged on behalf of PAFL that all the stipulations under Government Resolution dated 23/11/2001 were not followed

while allotting area admeasuring 343 Hectares 23.40 Ares in favour of UFAPL. It is to be noted that PAFL is also a beneficiary of a similar decision wherein it has been held entitled to a lease for area admeasuring 343 Hectares 23.40 Ares. It is not the case of PAFL that pursuant to any auction held, it has been granted lease of area admeasuring 248 Hectares 09.70 Ares. We therefore do not find any justifiable reason to hold that the grant of lease to the extent of area admeasuring 343 Hectares 23.40 Ares in favour of UFAPL is either illegal or arbitrary.

12] As regard the contention raised on behalf of PAFL that the portion of area allotted to UFAPL had been developed by it and hence UFAPL would get fruits of such development, it would be open for PAFL to claim damages for the same if so advised. On that ground, it cannot be said that grant of lease in favour of UFAPL is bad in law. In absence of any right in favour of PAFL to seek extension of such lease coupled with the fact that it is also a beneficiary of the decision of the State Government to grant it lease for a portion of the area, no fault can be found with the Government Resolution dated 13/03/2024 by which land admeasuring 343 Hectares 23.40 Ares has been granted to

UFAPL. The learned Senior Advocate for UFAPL is justified in relying upon the observations in paragraphs 48 and 49 of the decision in *Army Welfare Education Society (supra)*, wherein it has been observed as under :-

48. A reading of the aforesaid decisions brings forth the following features regarding the doctrine of legitimate expectation:

- a. First, legitimate expectation must be based on a right as opposed to a mere hope, wish or anticipation;
- b. Secondly, legitimate expectation must arise either from an express or implied promise; or a consistent past practice or custom followed by an authority in its dealings;
- c. Thirdly, expectation which is based on sporadic or casual or random acts, or which is unreasonable, illogical or invalid cannot be treated as a legitimate expectation;
- d. Fourthly, legitimate expectation operates in relation to both substantive and procedural matters;
- e. Fifthly, legitimate expectation operates in the realm of public law, that is, a plea of legitimate action can be taken only when a public authority breaches a promise or deviates from a consistent past practice, without any reasonable basis.
- f. Sixthly, a plea of legitimate expectation based on past practice can only be taken by someone who has dealings, or negotiations with a public authority. It cannot be invoked by a total stranger to the authority merely on the ground that the authority has a duty to act fairly generally.

49. The aforesaid features, although not exhaustive in nature, are sufficient to help us in deciding the applicability of the doctrine of legitimate expectation to the facts of the case at hand. It is clear that legitimate expectation, jurisprudentially, was a device created in order to maintain a check on arbitrariness in state action. It does not extend to and cannot govern the operation of contracts between private parties, wherein the doctrine of promissory estoppel holds the field.

13] Thus, having considered the material on record, we are satisfied that no case has been made out by PAFL for this Court to interfere in

exercise of writ jurisdiction under Article 226 of the Constitution of India. The writ petition therefore fails. It is accordingly dismissed and the Rule is discharged with no order as to costs.

14] At this stage, the learned counsel for the petitioners seeks continuation of the interim relief. This request is opposed by the learned counsel for the respondents. In the facts of the case, the present judgment shall operate after a period of four weeks from the date it is uploaded.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]