



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

63 CRIMINAL WRIT PETITION NO. 1575 OF 2024

Afzal Kalu Gavali,
Age : 31 years, Occupation: Labour,
R/o.: City Survey, 3873/32, Vakil Galli,
Municipal Park, Bhusawal,
District : Jalgaon.

... Petitioner

Versus

1. The State of Maharashtra,
Represented through the police officers of
Bhusawal City Police Station, Bhusawal,
Taluka : Bhusawal, Dist.: Jalgaon.
2. Central Circuit Cine Association
Municipal Park, Bhusawal,
Though Sanjay Sureshchandra Surana,
Age : 59 years, Occupation: Business,
R/o.: Garud Plot, Bhusawal, Tal. Bhusawal,
Dist.: Jalgaon.
3. Shri. Jitendra Dinkar Patil,
Age : Major, Occupation: Sub-Divisional
Magistrate, Bhusawal,
Official Address: Office of Sub-Divisional
Officer/Sub-Divisional Magistrate,
Bhusawal, Taluka: Bhusawal,
Dist.: Jalgaon.

... Respondents

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Mrs. Rashmi S. Kulkarni, Advocate for the Petitioner.

Mr. G. O. Wattamwar, APP for Respondent No. 1.

Mr. Ravindra L. Khapre, Senior Advocate a/w. Mr. Sanjeev P. Deshpande, Mr. V. S. Giramkar, Mr. K. R. Jain and Mr. A. S. Bayas, Advocate for Respondent No.2.

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CORAM : SUSHIL M. GHODESWAR, J.

RESERVED ON : 13th OCTOBER, 2025
PRONOUNCED ON : 07th NOVEMBER, 2025

JUDGMENT:-

1. **Rule.** Rule made returnable forthwith. By consent of the parties, heard finally.
2. Apart from various prayers, the main prayer sought by the Petitioner is for quashing and setting aside the proceedings in respect of provisions of Section 145 of the Code of Criminal Procedure, 1973 (Cr.P.C.), and the order dated 11.06.2024 pursuant to the proposal bearing No.2 of 2024 dated 10th June 2024 pending on the file of learned Sub-Divisional Magistrate (SDM) Bhusawal, District Jalgaon. By way of amendment, the Petitioner has incorporated various prayer clauses. However, for the purpose of adjudication, the aforesaid prayers encompass all the reliefs sought by the Petitioner.
3. The brief facts of the present case can be summarized in short as under :-
 - (i) The original owner of the property bearing CTS No.3873/32, admeasuring 438.50 sq. metres, situated at Bhusawal, is one Mr. Cawas Amroliwala, residing at Mumbai. On 29th December 2023, the said owner executed a registered Power of Attorney in favour of one Mr. Iqbal Gavali for the purpose of execution and registration of the sale deed.
 - (ii) Accordingly, on 2nd January 2024, the sale deed in respect of the

said property came to be executed and registered in favour of petitioner.

- (iii) On the basis of aforesaid sale deed, on 7th February 2024, the name of the Petitioner was duly mutated in the municipal records in respect of the said property.
- (iv) However, on 7th May 2024, Respondent No.2 - a society namely *Central Circuit Cine Association* lodged a written complaint before Respondent No.1 - City Police Station, Bhusawal, alleging that the Association has been in possession of the said property since 1992 and that same had been conveyed to it by a registered sale deed executed in the year 2000. The Association claimed to have been using the premises for its office and guest house.
- (v) According to the Petitioner, thereafter, certain unknown persons came to the property and they have abused and threatened them. Consequently, on 19th May 2024, the Petitioner lodged a written complaint before Respondent No.1- City Police Station, Bhusawal, stating that around 15 to 20 persons had trespassed into the premises and threatened them to vacate the same.
- (vi) On 20th May 2024, the office bearer of Central Circuit Cine Association, namely one Sandip Bhandari also gave written complaint stating therein that on 19th May 2024, around 15 to 20

persons came to the said property, created ruckus and restrained them from entering the property. They claimed that the original owner Mr. Cawas Amroliwala had sold the said property to them in the year 2000 and they are in possession of the said property and further that the said original Cawas Amroliwala had accepted that he mistakenly sold the said property to the Petitioner. Respondent No.2 - Association accordingly claimed that the sale deed produced by the Petitioner is sham and bogus.

- (vii) On 3rd June 2024, FIR No.120 of 2024 came to be registered against the Petitioner and his family members for the offences punishable under Sections 141, 143, 147, 452, 448, 341, 427, 504 and 506 of Indian Penal Code (IPC).
- (viii) Accordingly, on 4th June 2024, the Petitioner and his family members came to be arrested.
- (ix) In the meantime, on 10th June 2024, the concerned police station of Bhusawal submitted the proposal bearing No.2 of 2024 for initiation of proceedings under Section 145 of Cr.PC.
- (x) On 11th June 2024, Respondent No.3 - SDM has passed an order of issuing notice to the concerned parties.
- (xi) In the meantime, on 12th June 2024, learned J.M.F.C., Bhusawal

was pleased to grant regular bail to the Petitioner and his family members, subject to the condition that they shall not enter the disputed property until filing of the charge-sheet.

- (xii) On 24th June 2024, after being released on bail, the Petitioner collected relevant documents and filed Special Civil Suit No.103 of 2024 before the learned Civil Judge (Senior Division), Bhusawal, seeking a declaration that the sale deed dated 4th December 1992 executed on 30th December 2000 in favour of the Association is null and void.
- (xiii) The Petitioner also filed Criminal Revision Application No.37 of 2024 challenging the order dated 11th June 2024 passed by the SDM, Bhusawal.
- (xiv) In the meantime, it is also found that on 18th July 2024, the original vendor Cawas Amroliwala also filed Special Civil Suit No.86 of 2024 before the learned C.J.S.D. Bhusawal seeking cancellation of Power-of-Attorney dated 28th December 2023 and also cancellation of sale deed dated 2nd January 2024.
- (xv) While dealing with Criminal Revision No.37 of 2024, learned Sessions Judge, vide order dated 23rd July 2024 was pleased to allow the stay application thereby granting stay to the proceedings before Respondent No.3-SDM, Bhusawal pertaining

to Section 145 of the Cr.P.C.

(xvi) It is also found that Respondent No.2 also filed Special Civil Suit No.83 of 2024 before the learned C.J.S.D Bhusawal seeking declaration, injunction and possession on 21st August 2024.

(xvii) Again on 22nd August 2024, after hearing the parties in Criminal Revision No.37 of 2024, learned Additional District Judge was pleased to dismiss the said criminal revision on the ground that order under challenge was not passed under Section 145(1) of Cr.P.C. but was merely an order for collecting information to enable the Magistrate to satisfy himself about the existence of a dispute.

(xviii) Consequently, on 23rd August 2024, Respondent No.3-SDM Bhusawal immediately initiated the proceedings and directed the parties to submit their arguments on or before 3rd September 2024.

(xix) On 3rd September 2024, the proceedings before the SDM, Bhusawal, were concluded after hearing both sides, and the matter was closed for orders.

(xx) However, on 6th September 2024, the Petitioner approached this Court seeking a stay to the impugned proceedings. Hence, the

matter is listed today for further hearing.

4. According to Mrs. Rashmi Kulkarni, learned Advocate for the Petitioner, the impugned order dated 11th June 2024 passed by the learned Sub-Divisional Magistrate, Bhusawal, is totally erroneous and has been passed without application of mind. The said order merely records that “notice be issued to the concerned.” Learned Advocate further invited my attention to the noting preceding the impugned order, made by the Tehsildar, wherein it is stated that he has gone through the proposal and for the purpose of hearing, notices to all concerned be issued. It is, therefore, submitted that the learned SDM, who is a quasi-judicial authority, has acted on the instructions of his subordinate officer, thereby rendering the impugned order grossly illegal and unsustainable in law and hence, liable to be quashed and set aside.

5. Mrs. Kulkarni further submitted that the powers conferred upon the Executive Magistrate under Chapter X of the Code of Criminal Procedure are preventive in nature and are to be exercised only with the object of preventing breach of public peace or tranquility likely to arise due to a dispute concerning land, water or boundaries. Before invoking such powers under Section 145 of the Cr.P.C., it is mandatory for the Magistrate to peruse the police report or other information received and to record his subjective satisfaction as to the likelihood of

breach of peace. Only upon such satisfaction, the Magistrate may pass an order setting out reasons for invoking the extraordinary preventive jurisdiction. In the present case, according to the learned Advocate, a bare perusal of the impugned order dated 11th June 2024 reveals that there is no recording of any satisfaction on the part of the learned SDM regarding the existence of a dispute likely to cause breach of peace. Hence, the impugned order reflects non-application of mind and failure to comply with the mandatory requirements of Section 145(1) of the Code.

6. It is further submitted on behalf of the Petitioner that since both parties have already approached the Civil Court seeking declarations concerning the validity of the respective sale deeds and their rights, title, and interest in the disputed property, the Civil Court is already seized of the matter. Therefore, the parallel proceedings before the learned SDM are wholly unwarranted and deserve to be quashed.

7. In support of her above submissions, Mrs. Kulkarni relied upon the decision of the Hon'ble Supreme Court in ***Amresh Tiwari vs. Lata Dubey & Anr.***¹, wherein it has been held that when the issue of possession is under adjudication before a competent Civil Court, the proceedings under Section 145 of the Cr.PC. should not continue

¹ (2000) 4 SCC 440

simultaneously. She also placed reliance on the judgment of the Hon'ble Apex Court in *Mohd. Abid vs. Ravi Naresh*², wherein it has been observed that once the Civil Court is seized of the subject matter, the proceedings under Sections 145/146 of the Cr.P.C. cannot continue and must come to an end.

8. Learned Advocate for the Petitioner further invited attention to paragraph No.XIII of the amended petition, wherein it has been specifically averred that Respondent No.3–SDM, Bhusawal, who passed the impugned order dated 11th June 2024, though being a quasi-judicial authority and not an original party to the proceedings, has nevertheless filed an affidavit before this Court seeking dismissal of the writ petition. It is contended that such conduct on the part of the SDM indicates bias and lack of judicial impartiality, thereby violating the Petitioner's fundamental rights guaranteed under Article 21 of the Constitution of India. She further pointed out that by way of amendment, Respondent No.3–SDM, Bhusawal, has been impleaded by name as a party Respondent in the present petition. It is strongly urged that when an adjudicating authority exhibits bias towards one of the parties to a lis, such conduct frustrates the guarantee of fair procedure implicit in Article 21 of the Constitution. Therefore, according to Mrs. Kulkarni, the act of Respondent No.3 in filing an affidavit seeking dismissal of the writ petition amounts to manifest bias, and hence, the

2 (2022) SCC OnLine SC 1051

entire proceedings initiated under Section 145 of the Cr.PC. are liable to be quashed and set aside. In support of this submission, she relied upon the judgment delivered by the Hon'ble Apex Court through *Justice P. D. Dinakaran (Retd.) Vs. Hon'ble Judges Inquiry Committee*³, wherein it is held that the proceedings shall be vitiated if the judge is shown to have bias in favour of or against either party to the dispute and, therefore, he is disqualified to act as a judge. Accordingly, Mrs. Kulkarni strongly prayed for quashing of the said proceedings before the SDM Bhusawal under Section 145 of the Cr.PC.

9. Mr. Ravindra L. Khapre, learned Senior Advocate, duly assisted by Mr. Sanjeev P. Deshpande and Mr. V. S. Giramkar, appeared on behalf of Respondent No.2. He submitted that Respondent No.2- *Central Circuit Cine Association* had purchased the property in question from the original owner, Mr. Cawas Amroliwala, as far back as in the year 1992 and the said sale deed came to be executed and registered in the year 2000. According to him, Respondent No.2 has been in continuous possession of the property since then and has established its guest house and office on the said premises. Learned Senior Advocate invited my attention to Proposal No.2 of 2024 submitted by Police Sub-Inspector, Mr. Mohammad Ali Syed, Police Station Bhusawal, to the Sub-Divisional Magistrate, Bhusawal, seeking initiation of proceedings under Section 145 of the Code of Criminal

3 (2011) 8 SCC 380

Procedure. He took the Court through the contents of the said proposal, which refers to the complaint made by the Secretary of Respondent No.2, Mr. Ashok Kolvankar, to Police Station Bhusawal. In the said complaint, it is alleged that on 6th May 2024, at about 11:00 a.m., seven to eight unknown persons entered the office premises and threatened the staff, claiming ownership over the property. Pursuant to the said complaint, the statements of certain neighbours were recorded, who confirmed that Respondent No.2 was in possession of the premises and was operating its office from the said property. It is further stated that on 19th May 2024, a quarrel ensued near the office of the Central Circuit Cine Association, and upon reaching the spot, it was found that persons from the Petitioner's side had restrained the members and office bearers of the Association from entering the property. Accordingly, it is the contention of learned Senior Advocate that Respondent No.2 is the *original and lawful possessor* of the property in question. During the course of investigation, spot panchanama was conducted, wherein certain documents were recovered, including speed post letters addressed to the *Central Circuit Cine Association*, the 17th Annual Journal of the Association showing the address of the disputed property and the Association's savings bank passbook seized from the said premises, all of which, according to him, clearly establish Respondent No.2's possession. It was further pointed out by Mr. Khapre, learned Senior Advocate, that the Petitioner has a

history of involvement in land-related disputes and land-grabbing cases and had previously initiated similar proceedings before the authorities, which were disposed of by the SDM.

10. According to Mr. Ravindra L. Khapre, learned Senior Advocate appearing for Respondent No.2, the contention raised by the Petitioner has already been considered and dealt with by this Court in the case of *Abdul Gaffar s/o. Abdul Sadam Vs. Ramratan Khandelwal Ramkishore Khandelwal & Anr.*⁴. Referring to paragraph No.10 of the said judgment, learned Senior Advocate submitted that the Executive Magistrate is empowered to pass an order under Section 145 of the Cr.P.C. if, upon being satisfied from the report of a police officer or upon other information, it appears to him that a dispute likely to cause breach of peace exists concerning immovable property. Upon such satisfaction, the Magistrate is required to make an order in writing setting forth the grounds of his satisfaction. Merely because, in a given case, the Executive Magistrate has not elaborately recorded the grounds in the proceedings under Section 145 of the Cr.P.C., it cannot automatically be inferred that the initiation of proceedings is illegal or without jurisdiction. He further drew attention to paragraph No.12 of the said judgment, wherein it has been held that proceedings under Section 145 of the Cr.P.C. ought to be permitted to continue in view of the clarification rendered by the Hon'ble Apex Court in *Ram Sumer Vs.*

4 2005 All MR (Cri) 1260

State of U.P.⁵. In the said decision, the Supreme Court has observed that whether or not proceedings under Section 145 of the Cr.P.C. should be stayed depends upon the facts and circumstances of each individual case, and there is no universal rule that such proceedings must necessarily be stayed merely because a civil suit involving the same property is pending. Mr. Khapre also placed reliance on the judgment of this Court in ***Jayantilal Padamshee Shah Vs. Chandu Khushhandu Udhwani & Ors.***⁶, wherein it was observed that under Section 145(1) of the Cr.P.C., the Magistrate can arrive at his satisfaction either on the basis of a police report or upon other information, and that the expression “other information” includes even an application made by a dispossessed party. It was further held that it is open to the Magistrate to call upon the parties to produce material enabling him to determine whether a dispute likely to cause breach of peace exists. He further relied on the judgment of the Hon’ble Supreme Court in ***Prakash Chand Sachdeva Vs. The State & Anr.***⁷, wherein it has been held that when the dispute between the parties pertains to possession and not to ownership or title, the Magistrate is competent to invoke the jurisdiction under Section 145 of the Cr.P.C. The provision deals exclusively with disputes relating to possession and, therefore, proceedings under Section 145 cannot be dropped merely on the ground of pendency of a civil suit. On similar lines, learned Senior

5 AIR 1985 SC 472

6 1986 Mh.L.J. 855

7 AIR 1994 SC 1436

Advocate invited attention to several other authorities, including the decision of the Hon'ble Supreme Court in ***Bhinka & Ors. Vs. Charan Singh***⁸, wherein it has been held that Section 145 of the Cr.P.C. does not empower the Magistrate to direct delivery of possession to a person who was not in possession on the date of the preliminary order passed under that provision. It was further observed that even in cases where a party has been forcibly or wrongfully dispossessed within two months preceding the date of the preliminary order, the Magistrate is authorised only to treat such party as if he had been in possession on the relevant date. Paragraphs 13 and 14 of the said judgment read thus:-

“13. Can it be said that the appellants had taken possession in accordance with the provisions of S. 145 of the Code of Criminal Procedure? The short answer is that S. 145 of the said Code does not confer on a Magistrate any power to make an order directing the delivery of possession to a person who is not in possession on the date of the preliminary order made by him under S. 145 (1) of the Code. Under S. 145 (1) of the Code, his jurisdiction is confined only to decide whether any and which of the parties was on the date of the preliminary order in possession of the land in dispute. The order only declares the actual possession of a party on a specified date and does not purport to give possession or authorise any party to take possession. Even in the case of any party who has been forcibly and wrongfully dispossessed within two months next before the date of the preliminary order, the Magistrate is only authorised to treat that party who is dispossessed as if he had been in possession on such date. If that be the legal position, the appellants could not have taken possession of the disputed lands by virtue of an order made under the provisions of S. 145 of the Code of Criminal Procedure. They were either in possession or not in possession of the said lands on the specific date, and, if they were not in possession on that date, their subsequent taking possession thereof could not have been under the provisions of the Code of Criminal Procedure.”

14. If the appellants did not take possession of the disputed lands, did they retain possession of the same in accordance with the provisions of the law for the time being in force? The dichotomy between taking and retaining indicates that they are mutually exclusive and apply to two different situations. The word "taking" applies to a person taking possession of a land otherwise than in accordance with the provisions of the law, while the word "retaining" to a person taking possession in accordance with the provisions of the law but subsequently retaining the same illegally. So construed, the appellants' possession of the lands being illegal from the inception, they could not be described as persons retaining possession of the said lands in accordance with the provisions of any law for the time being in force, so as to be outside the scope of S. 180 of the Act."

11. He further invited my attention to the fact that the Petitioner's claim of having purchased the property by virtue of a sale deed dated 2nd January 2024 is based on a bogus and fabricated document. According to him, the said transaction is highly doubtful as the property in question is purported to have been sold for a meagre consideration of Rs.6,00,000/-, whereas the stamp duty paid thereon amounts to Rs.4,48,000/-. The original owner, Mr. Cawas Amroliwala, has already initiated proceedings for cancellation of the said sale deed and has also executed an affidavit in favour of Respondent No.2, stating that the sale deed was executed by mistake. In the said affidavit, he has further declared that he has taken necessary steps for revocation of the Power of Attorney and for cancellation of the impugned sale deed. On these grounds, Mr. Khapre, learned Senior Advocate appearing for Respondent No.2, submitted that the order dated 6th September 2024 passed by this Court, whereby the proceedings before the learned SDM, Bhusawal, under Section 145 of

the Cr.P.C. were stayed, deserves to be vacated and that the learned SDM, Bhusawal, be directed to proceed with the matter and pass appropriate orders in accordance with law.

12. Mr. G. O. Wattamwar, learned APP appearing for Respondent No.1-State submitted that the Petitioner had initially failed to implead Respondent No.3-SDM, Bhusawal as a necessary party, despite the fact that the order impugned in the present proceedings has been passed by him. However, pursuant to the directions issued by this Court, the Petitioner has now added the said officer as a necessary party to the proceedings. She further submitted that the learned SDM, Bhusawal, was directed by this Court to file his affidavit in response and in compliance with the said directions, he has accordingly filed the same.

13. This Court by order dated 6th September 2024 was pleased to issue notices to the Respondents and further directed the SDM, Bhusawal not to pronounce the judgment till the next date of hearing. Consequently, the proceedings before the learned SDM, Bhusawal have remained stayed and have come to a halt since then.

14. Upon considering the rival submissions and carefully scrutinizing the entire record placed before me, the foremost question that arises for consideration is whether there existed a situation warranting initiation of proceedings under Section 145 of the Code of

Criminal Procedure. The various complaints and events on record indicate that the Petitioner under the guise of the impugned sale deed dated 2nd January 2024, attempted to claim possession over the disputed property. However, the material on record reveals that the Petitioner has merely sought to project that he is in possession of the said property. Since civil suits concerning the ownership and title of the property are already pending before the competent Civil Court, learned Advocate for the Petitioner contended that there was no necessity to invoke the provisions of Section 145 of the Cr.PC. However, this submission does not find support from the record of the proceedings before the authorities. The office bearers of Respondent No.2-Association had lodged complaints with the police authorities regarding incidents wherein the Petitioner allegedly attempted to take possession of the premises on the basis of the said sale deed dated 2nd January 2024. Acting upon such complaints, the police carried out an inquiry and recorded statements of several neighbouring persons, who unequivocally stated that Respondent No.2 - Association is in possession and is running its office from the disputed premises. Furthermore, during the spot panchanama, the police discovered and seized several documents belonging to Respondent No.2-Central Circuit Cine Association. The evidence collected from these independent witnesses suggesting the Respondent No.2 to be in possession of the said property.

15. Another aspect to be considered in the present matter is that the Civil Courts, which are seized of the dispute, have not passed any injunction orders restraining the parties from entering or occupying the property. Consequently, there is no legal impediment for the learned SDM, Bhusawal, to initiate proceedings under Section 145 of the Cr.PC. It is the duty of the learned SDM to pass appropriate orders to maintain public peace in the locality, including protecting the possession of the party who has satisfactorily established that he was/is in lawful possession of the property. It is well settled that proceedings under Section 145 Cr.PC. are preventive in nature and are intended to maintain public peace and not to adjudicate upon title or ownership. However the procedure for initiating action is prescribed under section 145 of the CrPC. The words appearing in sub-section (1) as *“he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his court....”* are very important. Thus the section itself provides that the Learned SDM is required to record the reasons of being satisfied before passing preliminary order. As the learned SDM on 11.06.2024 has passed just three words order of “issue notices to concerned”, is, therefore, in clear violation of section 145 as there are no grounds of his satisfaction have been provided while passing the said order. When the procedure itself contemplates of doing certain exercise in particular mandatory manner, the non compliance of the same therefore would

cause serious failure. The reasoning of the Revisional Court to the extent that if the magistrate is satisfied by reading the police report or the application, it is not obligatory on the Magistrate to record the grounds separately is also not appropriate as the Magistrate has not, in his order dated 11.06.2024, even said that he has gone through or read the police report. Thus, while the jurisdiction of the Magistrate under Section 145 cannot be doubted, but the impugned order suffers from procedural infirmity owing to non-recording of satisfaction.

16. In view of above submissions the pendency of the civil disputes between the parties is, therefore, not a ground to drop the proceedings under section 145 of the Cr.P.C. The Learned Magistrate can decide the proposal of police in accordance with law.

17. The submissions of the learned Advocate for the Petitioner regarding the alleged bias of the learned SDM also needs consideration. It is pointed out that the said SDM had earlier dealt with a matter involving allegations against the Petitioner in earlier case and being a statutory authority, is expected to decide matters in an impartial manner. Notwithstanding this, the fact that the learned SDM has filed an affidavit before this Court praying for dismissal of the present writ petition indicates a potential conflict of interest or perceived bias. In view of this, the same learned SDM, i.e., Respondent No.3, cannot be directed to adjudicate the present proceedings under

Section 145 of the Cr.PC.

18. In that view of the matter, Mr. Khapre, learned Senior Advocate, suggested that in order to avoid any perceived bias on the part of Respondent No.3-SDM, Bhusawal, this Court may direct the Collector, Jalgaon or any other competent SDM to adjudicate the matter.

19. The impugned order dated 11th June 2024 on police proposal no. 02/2024 passed by the Learned SDM (respondent No. 3) is quashed and set aside.

20. Accordingly, it is hereby directed that the Collector, Jalgaon, shall either personally decide the case arising out of the proposal bearing No.2 of 2024 dated 10th June 2024 or assign the said matter to any other SDM in his district, but excluding Respondent No.3 Shri. Jitendra s/o Dinkar Patil. The Collector shall ensure that the matter is decided independently and uninfluenced by any observations made in this order.

21. The order dated 6th September 2024, whereby the proceedings before the learned SDM, Bhusawal, were stayed, is hereby continued till passing of preliminary order under section 145 of CrPC. The designated authority, whether the Collector or the assigned SDM is directed to pass preliminary order under section 145 of CrPC on

proposal bearing No.2 of 2024 dated 10th June 2024, within a period of one month from the date of this order as per the requirements of Section 145.

22. In view of the above, Rule is made absolute in the aforesaid terms. Accordingly, the writ petition is partly allowed. No order as to costs.

(SUSHIL M. GHODESWAR, J.)

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