



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

**WRIT PETITION NO. 13929 OF 2023
WITH CIVIL APPLICATION NO. 5708 OF 2025**

Santosh s/o Sudam Bhalerao,
Age 39 years, Occu: Business,
R/o H. No.5-3-10, Lane No.3,
Beside Maruti Mandir, MIDC,
Area Chikalthana, Brijwadi,
Aurangabad, Tq. & District:
Aurangabad

-----PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Principal Secretary,
Departmental Industries Mining
And Marathi Language 114 Annex
Building, Mantralaya, Mumbai-32.
2. The Chief Executive Officer,
The Maharashtra Industrial
Development Corporation,
Head Office, 8, Udyog Sarthi,
Mahakali Cave Road, Andheri
East, Mumbai-400093.
3. The Joint Chief Executive Officer,
(Jr. C.E.O.), Maharashtra Industrial
Development Corporation (MIDC),
Head Office, 9, Udyog Sarthi,
Mahakali Cave Road, Andheri
East, Mumbai-400093.
4. The Regional Officer, Aurangabad,
Maharashtra Industrial Development
Corporation, Railway Station
Road, Aurangabad.
5. The Chief Planer,
MIDC Udyog Sarthi,
Mahakali Cave Road, Andheri

East, Mumbai-400093.

6. Technical Advisor,
Udyog Sarthi,
Mahakali Cave Road, Andheri
East, Mumbai-400093.
7. Vinayak V. Andhale,
Age Major, Occu: Business,
R/o C/o CA office of Zavar,
Joyti Nagar, Shanoor Miya
Dargha Road, Aurangabad.
8. Vidhya Prafulla Bafna,
Age Major, Occu: Business,
R/o C/o Plot No.C-30, MIDC,
Chikalthana, Aurangabad.
9. Gauri w/o Ashish Zavar,
Age Major, Occu: Business,
R/o C/o CA office of Zavar,
Joyti Nagar, Shanoor Miya
Dargha Road, Aurangabad.

-----RESPONDENTS

Mr. B. L. Sagar Killariker h/f Mr. M. B. Sandanshiv, Advocate for
petitioner

Mr. A. R. Kale, Addl. GP for respondent No. 1

Mr. Shrihari Aney, Senior Advocate i/b Mr. S S. Dande, Advocate for
respondent Nos. 2 to 6

Mr. A. M. Karad, Advocate for respondent No. 7

Mr. A. S. Golegaonkar, Amicus Curiae

Mr. Swapnil Patil a/w Mr. N. S. Shah and Mr. S. S. Sarde, Advocate for
respondent No. 9

CORAM

**: Smt. Vibha Kankanwadi &
Hiten S. Venegavkar, JJ.**

RESERVED ON

: 09th October, 2025

PRONOUNCED ON

: 08th December, 2025

JUDGMENT (PER : Hiten S. Venegavkar, J) :-

1. The petitioner has invoked the writ jurisdiction of this Court under Articles 226 and 227 of the Constitution of India challenging the decisions taken in the meetings of the Minor Modification Committee (MMC) on 21.09.2023 and the Land Allotment Committee (LAC) of MIDC on 25.09.2023, whereby open spaces bearing Nos. 8 and 15 in the Chikalthana MIDC Industrial Area, Aurangabad, came to be allotted to respondent Nos. 7 to 9. The petitioner seeks quashing of these decisions and also direction to the Maharashtra Industrial Development Corporation ("MIDC") to allot the very same open spaces to him.

It must be stated at the outset that the applications for allotment of the subject lands were submitted not by the present petitioner in his individual capacity, but by a partnership firm operating under the name and style of M/s. Shri Pratiksha Industries. The present writ petition, however, has not been instituted by the said firm; instead, it has been filed by the petitioner in his personal capacity. The petition is conspicuously silent on whether the partnership firm is duly registered under the Indian Partnership Act, 1932, and whether the firm or its partners have authorized the petitioner to institute these proceedings on its behalf. In the absence of any challenge by the firm itself an independent legal entity to the rejection of its applications, a serious and fundamental issue arises with respect to the petitioner's locus standi and

the very maintainability of a petition under Article 226 of the Constitution of India at his behest. In our considered view, such a petition, filed by an individual without demonstrating due authorization from the partnership firm, would ordinarily not be maintainable and could be rejected on this ground alone. Nevertheless, since the matter also raises a broader challenge to the policies adopted by the MIDC in making allotments of its plots without recourse to public advertisement or auction, we have deemed it appropriate to entertain the petition to that limited extent. While addressing this larger issue, we shall also examine the applicability of the MIDC's policies to the case of the petitioner, who asserts that he is a partner of the original applicant, M/s. Shri Pratiksha Industries.

Petitioners Case :-

2. MIDC is a statutory corporation constituted under the Maharashtra Industrial Development Act, 1961 ("MIDC Act"), for the planned and accelerated development of industries within the State. It acquires, develops and disposes its land in notified industrial areas in terms of the MIDC Act and the Maharashtra Industrial Development Corporation Disposal of Land Regulations, 1975 ("Land Disposal Regulations" or "DLR 1975"). Petitioner submits that Chikalthana Industrial Area, Aurangabad,

is one such industrial estate and open spaces Nos. 8 and 15 form part of the layout of said area and were originally shown as open spaces, which were subsequently considered for conversion and allotment.

3. The petitioner claims to be a partner in a firm known as M/s Shree Pratiksha Industries. He states that he submitted an application dated 24.05.2023 in the name of the said firm for allotment of open spaces Nos. 8 and 15 for setting up a manufacturing unit for agro equipment along with warehousing. He asserts that he submitted another application dated 25.08.2023, and that he was ready and willing to invest more than ₹20 crores in the proposed unit. According to him, under Government notifications dated 31.12.2018 and 04.09.2023, agro equipment and food processing industries are recognized as “thrust sectors” entitled to priority allotment and, therefore, his proposal fell within the preferred category.

4. The grievance of the petitioner is that, although his applications were prior in point of time, the respondent MIDC authorities ignored his claim and instead considered the online applications of respondent Nos. 7 to 9, whose proposals were admittedly later in time. The petitioner contends that the policy of priority allotment, requires that among applicants, seniority in submitting applications ought to be preferred. He alleges that the failure to consider his application in the meeting of the

decisions of the MMC and LAC amounts to illegal discrimination, arbitrariness and favoritism in favour of respondent Nos. 7 to 9. He further alleges that he issued a legal notice dated 27.09.2023 to MIDC asserting his grievance and insisted for his claim of allotment.

5. The petitioner states that he attempted to submit his proposal online, but that the MIDC online portal for the Aurangabad Division was allegedly not functioning, as reflected in certain screenshots annexed to the petition. On this basis he contends that there was a genuine impediment in following the online procedure and that his offline applications, accompanied by a detailed project report and processing fee, ought to have been treated as valid and considered by the LAC. He relies on a seniority list of proposals in which, according to him, the name of partnership firm M/s. Pratiksha Industries appears at serial No. 31 whereas respondent No. 9 appears at serial No. 34.

6. The petitioner also asserts that MIDC, while filing its reply, has admitted that certain other entities have been allotted plots on the basis of offline applications. On the strength of these instances, he contends that the plea now taken by MIDC that only online applications are entertained is a mere pretext and that MIDC follows a pick-and-choose policy in entertaining offline applications of favored parties while rejecting similarly placed applicants such as the petitioner. He further

alleges that the allotment in favour of respondent No. 9 was made during the pendency of the petition and that the said plot has been transferred to a third party.

7. On the above basis, the case of the petitioner, as pleaded and as argued, is that: (i) Partnership firm's application was prior in time; (ii) belongs to a thrust sector with the requisite investment; (iii) offline applications ought to have been accepted in view of the alleged non-functioning of the portal; (iv) MIDC has entertained offline applications of others; and (v) the allotment of the subject open spaces in favour of respondent Nos. 7 to 9 is arbitrary, discriminatory, violative of Article 14 of Constitution of India and contrary to MIDC's own circulars mandating allotment by e-tender.

8. The learned advocate for the petitioner submitted that the circular dated 26.09.2016, which revises the land allotment process in light of the "Ease of Doing Business" policy, contemplates allotment of plots by the e-tender process and requires public advertisement of available plots in newspapers and on the official website. He contends that, in the absence of any such advertisement or e-tender for open spaces Nos. 8 and 15, the very entertainment of the online application of respondent Nos. 7 to 9 is illegal. Relying upon the rejection communication dated 07.07.2023, he submits that MIDC itself stated that the plots at

Chikalthana Industrial Area were to be allotted only by tender. He therefore, questions how, despite such communication, respondent Nos. 7 to 9 could have allowed to access and apply online for the very same plot.

9. The petitioner's counsel further contends that the minutes of the LAC meeting dated 25.09.2023 reveal that representatives of respondent Nos. 7, 8 and 9 were present before the Committee, whereas no such opportunity was accorded to the petitioner. According to him, this differential treatment in hearing and processing applications is indicative of bias and favoritism. He places heavy reliance on the decision of this Court in **Real Team Systems Pvt. Ltd. v. State of Maharashtra**, Writ Petition No. 9279 of 2012, decided on 20 February 2014, where this Court, while interpreting Regulation 4 of the Land Disposal Regulations, emphasized the need for transparency and fairness, and observed that allotment of public property by entertaining individual applications is an exception and not the rule, and that ordinarily disposal should be through public auction or open tender.

10. The learned advocate also relies upon the decision of the Supreme Court in **Akhil Bhartiya Upbhokta Congress v. State of Madhya Pradesh**, (2011) 5 SCC 29 : AIR 2011 SC 1834, where allotment of land to a memorial trust at a throwaway price was struck down on the ground of lack of transparency and denial of equal opportunity. He submits that

the principle that emerges from that decision is that public land can be allotted only after issuing an advertisement and inviting competitive offers, so as to ensure a level playing field for all similarly situated persons.

11. On these premises, the petitioner's counsel argues that the prevailing policy of MIDC, to allot plots on a priority basis and in online mode without advertisement of specific plots, violates the constitutional requirement of fairness and equal opportunity and the settled principle that disposal of public property should be ordinarily through advertisement and tender. He accordingly prays that the allotment in favour of respondent No. 9 be set aside and that MIDC be directed to allot the subject plots to the petitioner.

Case of Respondent Authorities of MIDC -

12. Respondent No. 4, the Area Manager of MIDC, has filed a detailed reply affidavit as well as an additional affidavit, setting out the statutory framework and policy evolution, and firmly opposing the petition. MIDC points out that it is a statutory corporation constituted under the MIDC Act, with its functions, powers and duties specified in Sections 14, 15 and 16. Section 39 in particular deals with the power to dispose of land acquired by the State Government and transferred to the Corporation. Sub-section (1) of Section 39 permits disposal of such land, with or

without development, “to such person, in such manner, and subject to such terms and conditions as it considers expedient for securing the purposes of this Act”, subject to any directions issued by the State Government. Sub-section (3) of Section 39 clarifies that, save as to disposal by way of gift, mortgage or charge, disposal may be “in any manner, whether by way of sale, exchange or lease or by the creation of any easement, right or privilege or otherwise”.

13. MIDC further relies on the Land Disposal Regulations, 1975 and, in particular, Regulation 4, which expressly provides that out of the land covered by the layout, the Corporation may dispose of plots of land “either by public auction or by entertaining individual applications”. Regulation 6 prescribes the form and manner of applications and the role of the Chief Executive Officer and the Land Committee in scrutinizing the applications and making recommendations. MIDC submits that these regulations clearly recognize two distinct and equally valid manners of disposal and that there is no statutory mandate that disposal must in all cases be by auction or tender.

14. As regards the facts of the present case, MIDC submits that the petitioner’s applications were submitted offline, were not in the prescribed form, and were wholly incomplete. He did not furnish the partnership registration certificate, net-worth certificate of partners, nor a detailed project report in the format prescribed by the circular dated

13.10.2022. He also did not submit any valid application through the online portal. After scrutiny, his applications were rejected on 07.07.2023 and 29.08.2023. MIDC states that the rejection communications were dispatched and that the petitioner has not challenged them till date. Thus, at the time when the LAC considered the proposals for the subject plots, the petitioner had no valid application pending at all.

15. Furthermore, MIDC asserts that five valid online applications were received for the subject lands, including that of respondent No. 9. After technical scrutiny, these applications were placed before the LAC in its meeting dated 25.09.2023. In that meeting, one application was rejected, three were deferred and respondent No. 9's application was recommended for allotment, having been found fully compliant with the policy for priority allotment under the State's Industrial Policy and MIDC circulars. Allotment order was issued on 30.01.2024; possession was handed over on 24.01.2025; and a registered agreement to lease has been executed on 07.03.2025. MIDC submits that substantial rights have thus been created in favour of respondent No. 9 and that this Court ought not to unsettle a completed allotment in the absence of clear illegality or mala fides.

16. Respondent No. 4 explains in detail the evolution of MIDC's land allotment policy. Initially, allotments were made predominantly on a

first-come-first-served basis. With rapid industrialization, growing demand from multinational corporations and large domestic enterprises, and the State's objective of attracting substantial investments, the earlier policy was found inadequate. Therefore, the Board of Directors of MIDC, by resolutions dated 19.12.2007 and 04.01.2008, introduced a system of "priority allotment" for certain categories of investors meeting specified investment thresholds and conditions. This policy has since been refined by circulars issued from time to time, including the circular dated 26.09.2016, which seeks to align MIDC's land allotment process with the Ease of Doing Business policy, and the circulars dated 31.12.2018 and 04.09.2023, which identify thrust sectors and reduce investment thresholds for certain backward regions.

17. In order to enhance transparency and consistency, MIDC decided that applications for allotment, particularly under the priority category, would be accepted only in online mode. By office order dated 29.11.2017, detailed guidelines were issued stipulating that applications must be filed online, that they would be technically scrutinized, and that only eligible applications would be placed before the LAC. Ineligible applications would be summarily rejected, with reasons communicated to the applicants. It is in this backdrop that the petitioner's offline and incomplete applications were rejected, while respondent No. 9's online and complete application was accepted for consideration.

18. MIDC specifically refutes the allegation that the online portal for Aurangabad was non-functional. It points out that, during the relevant period, several online applications, including that of respondent No. 9, were successfully submitted and processed for Chikalthana Industrial Area. The screenshots produced by the petitioner, according to MIDC, pertain to other industrial areas and do not establish any systemic failure in the Aurangabad Division.

19. As to the instances cited by the petitioner of other offline allotments, MIDC explains that in cases like M/s Shivamtika Agro Industries Pvt. Ltd., an initial offline request was followed by a valid online application dated 29.09.2022, and only the online application was processed. In other instances, such as allotments to MSEDCL, the Police Department, educational trusts and Bar Council, the allotments were for public amenities and institutional uses, processed either through the Minor Modification Committee or upon specific Board resolutions. Those cases stand on a different footing and cannot be equated with industrial allotments under the priority category to private entrepreneurs.

20. Learned senior counsel, Mr. Shrihari Aney, appearing for MIDC, supports the stand taken in the affidavits. He submits that the powers of MIDC under Sections 15(j) and 15(k) of the MIDC Act are wide enough to permit the Corporation to devise modes of allotment best suited to

fulfil its statutory functions, subject to constitutional limitations. Section 15(j) empowers the Corporation “to enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of its functions”, while Section 15(k) authorises it “to do such other things and perform such acts as it may think necessary or expedient for the proper conduct of its functions and the carrying into effect the purposes of this Act”. Sections 18 and 39 of MIDC Act, and the provisions of Land Disposal Regulations, the statutory framework clearly permits MIDC to make allotments either by auction or by entertaining individual applications, including under special schemes such as priority allotment.

21. The learned senior counsel relies upon the Division Bench judgments of this Court in **Somnath Gangadhar Karale v. State of Maharashtra**, 2016 (5) Bom CR 185 and **Parshwanath Infra Tech Pvt. Ltd., Dhule v. Maharashtra Industrial Development Corporation, Mumbai & Ors.**, 2016 SCC OnLine Bom 16008, wherein Regulation 4 of the Land Disposal Regulations has been expressly interpreted to recognize that MIDC may dispose of land either by public auction or by entertaining individual applications, and that allotments based on individual applications can be lawful provided the process is transparent and supported by policy.

22. The learned senior counsel further draws attention to the recent

Division Bench decision of this Court in **Bhrastachar Nirmoolan Sangathana v. State of Maharashtra & Ors.**, 2025 SCC OnLine Bom 2963, wherein challenges to several land allotments made by MIDC at concessional rates and without tender to educational institutions were repelled. This Court held that, so long as the Land Disposal Regulations, which empower MIDC to make allotments by entertaining direct applications, were not challenged, and so long as the allotments were not shown to be arbitrary or mala fide, no interference was warranted merely on the ground that there was no public advertisement.

23. The learned senior counsel also relies on **Real Team Systems Pvt. Ltd. v. State of Maharashtra**, 2014 SCC OnLine Bom 2916, where this Court, while insisting on transparency and fairness in the processing of individual applications, recognized that there may be exceptional situations where allotment by individual application is permissible and that the Land Disposal Regulations contemplate such exigencies. He then referred to order dated 31.07.2025 passed by this Court in present petition stating that MIDC's allotment policies will be tested which reads as under :-

1. Considering the orders passed in this petition on 19.06.2025, 23.06.2025 and 27.06.2025 and the fact that this Court intends to test the Priority Online Allotment Scheme of plots of the Respondent – MIDC, it would be appropriate that the said respondent is granted an opportunity to place on record the factual backdrop in which such policy will have to be tested.

2. *The Respondent - MIDC is granted time till 08.08.2025 to place on record a short affidavit giving the factual matrix. The Petitioner is permitted to file a rejoinder affidavit on or before 14.08.2025. The learned amicus curiae is requested to place his note along with compilation of judgments on record on or before 14.08.2025.*

3. *List the petition for further consideration on 20.08.2025 at 2:30 p.m.*

24. In light of above stated orders and in support of the constitutional validity of the MIDC policy, the learned senior counsel relies on several decisions of the Supreme Court. i) **Ramana Dayaram Shetty v. International Airport Authority of India**, (1979) 3 SCC 489 : AIR 1979 SC 1628.

ii) In **Kasturi Lal Lakshmi Reddy v. State of Jammu & Kashmir**, (1980) 4 SCC 1 : AIR 1980 SC 1992.

iii) **Aggarwal & Modi Enterprises (P) Ltd. v. New Delhi Municipal Council**, (2007) 8 SCC 75,

iv) **Akhil Bhartiya Upbhokta Congress** (supra)

v) **Natural Resources Allocation**, In re, Special Reference No. 1 of 2012, (2012) 10 SCC 1,

Thus, placing reliance on the aforesaid judgments, he submitted that Government and its instrumentalities are bound by Article 14 of Constitution of India to act fairly in the matters of awarding public contract. Distribution of State largessee must be informed by the results

and guided by public interest. However, he submitted that the State can recognize and consider choosing the method of distribution of its own choice with care and caution that such method is not arbitrary or discriminatory. He further submitted that it will not be appropriate to hold that public auction is only transparent and fair method for allotment of public property. The State and its instrumentalities should be kept free to adopt any other modes keeping the public interest in the forefront. All the aforesaid judgments supports the different policies which has been adopted by MIDC from time to time, and therefore, the same will have to be upheld in Court of law as constitutional.

Submissions of Amicus Curiae :-

25. An Amicus Curiae appointed by this Court has submitted written notes of his submission on record. Perusal of the submission, the Amicus has analyzed the MIDC Act, Land Disposal Regulations, the various circulars and Board resolutions and the factual matrix of the present case. The Amicus notes that Regulation 4 of the Land Disposal Regulations expressly permits disposal either by auction or by entertaining individual applications and that the priority allotment policy is a species of the latter method, resting on objective criteria such as investment thresholds, thrust sector classification, location in backward regions and the like. The Amicus also notes that the petitioner has not challenged the validity of the MIDC Act, the Land Disposal Regulations,

or the circulars introducing and regulating priority allotment, nor has he challenged the rejection orders dated 07.07.2023 and 29.08.2023 by which his own applications were declined. The only relief sought is to set aside the allotments in favour of respondent Nos. 7 to 9 and to direct MIDC to allot the plots to the petitioner.

26. According to the Amicus, in light of the statutory framework and the Supreme Court decisions noticed above, it cannot be contended that MIDC's priority allotment policy or its insistence on online mode is per se unconstitutional or contrary to the principle of equal opportunity. The true question is whether, in the facts of this case, MIDC has acted arbitrarily or discriminatory in applying its policy. Upon examining the record, including the LAC minutes, the communications issued to the petitioner and the scrutiny of respondent No. 9's application, the Amicus concludes that there is nothing to suggest mala fides, collateral considerations or discrimination. On the contrary, the petitioner did not even cross the threshold of eligibility under the prevailing policy, whereas respondent No. 9 did so.

27. Having considered the pleadings and submissions, it is appropriate to first deal with the constitutional objection raised by the petitioner, namely that the prevailing policies of MIDC to make allotments on a priority basis and in online mode, without advertisement of specific plots, violates the constitutional principle that public largesse should be

ordinarily distributed by inviting tenders after public advertisement.

28. It is well-settled in *Ramana Dayaram Shetty (supra)*

12. We agree with the observations of Mathew, J., in V. Punnan Thomas v. State of Kerala that:

The Government, is not and should not be as free as an individual in selecting the recipients for its largesse. Whatever its activity, the Government is still the Government and will be subject to restraints, inherent in its position in a democratic society. A democratic Government cannot lay down arbitrary and capricious standards for the choice of persons with whom alone it will deal.

The same point was made by this Court in Erusian Equipment and Chemicals Ltd. v. State of West Bengal where the question was whether black-listing of a person without giving him an opportunity to be heard was bad? Ray, C.J., speaking on behalf of himself and his colleagues on the Bench pointed out that black-listing of a person not only affects his reputation which is, in Poundian terms, an interest both of personality and substance, but also denies him equality in the matter of entering into contract with the Government and it cannot, therefore, be supported without fair hearing. It was argued for the Government that no person has a right to enter into contractual relationship with the Government and the Government, like any other private individual, has the absolute right to enter into contract with any one it pleases. But the Court, speaking through the learned Chief Justice, responded that the Government is not like a private individual who can pick and choose the person with whom it will deal, but the Government is still a Government when it enters into contract or when it is administering largesse and it cannot, without adequate reason, exclude any person from dealing with it or take away largesse arbitrarily. The learned Chief Justice said that when the Government is trading with the public, "the democratic form of Government demands equality and absence of arbitrariness and discrimination in such transactions...

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 largesse, 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 largesse 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.

Thus, the Government and its instrumentalities, in entering into contracts or distributing benefits or largesse, must act fairly, without arbitrariness, and must afford equal opportunity to all persons similarly circumstanced. The Supreme Court in that case held that the "Government cannot act arbitrarily and cannot give or withhold largesse in its arbitrary discretion or at its sweet will. It must, therefore, be guided by relevant considerations and not by any extraneous or irrelevant considerations, and if it does so, its action would be liable to be struck down as arbitrary and in violation of Article 14 of the

Constitution”.

29. In ***Kasturi Lal Lakshmi Reddy*** (supra)

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 the decision of this Court in Ramana 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 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 and Maneka Gandhi case 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.

Thus, the Court reiterated that the State's actions in distributing benefits or entering into contracts must be "informed with reason" and guided by public interest; any action that is "arbitrary, irrational or irrelevant" would attract the vice of Article 14. At the same time, the Court recognized that there may be situations where, for public interest reasons, the State may depart from a purely revenue-maximizing approach and adopt a method such as negotiation, provided that the departure is justified and non-arbitrary.

30. In **Akhil Bhartiya Upbhokta Congress** (supra), on which the petitioner relies, the Supreme Court was confronted with an allotment of valuable land to a memorial trust associated with a political leader at a nominal premium and on highly concessional terms, without any transparent process or rational criteria. In that context, the Court stressed that "when State largesse is to be conferred on any person or entity, the Government must adopt a method which is fair, just and transparent and also conforms to the doctrine of equality" and held that making a largesse available to a chosen body without any public notice

or rational classification was impermissible. That decision turned on its own facts, where the Court found a complete absence of rational policy and transparency.

31. The apparent tension in some of these earlier decisions was comprehensively addressed by the Constitution Bench in *Natural Resources Allocation, In re, Special Reference No. 1 of 2012*, (2012) 10 SCC 1. After examining **Akhil Bhartiya Upbhokta Congress, Centre for Public Interest Litigation v. Union of India**, (2012) 3 SCC 1, and other decisions, the Constitution Bench held that auction is not a constitutional requirement or a mandatory method for all allocations. The Court observed that “there is no constitutional principle that only one method, namely auction, must be followed in all cases of disposal of public property or natural resources” and that “the choice of method is to be made by the State, keeping in view the nature of the resource, the object of allocation and the larger public interest”. What Article 14 requires is that the chosen method must be fair, transparent, non-arbitrary and in consonance with the purpose of the statute or policy.

32. In considering the constitutional validity of the MIDC’s policy, it is necessary to bear in mind the settled doctrine that laws and policies relating to economic and fiscal regulation stand on a distinct footing and are entitled to a greater degree of judicial deference. In *R.K. Garg v.*

8. *Another rule of equal importance is that laws relating to economic activities should be viewed with greater latitude than laws touching civil rights such as freedom of speech, religion etc. It has been said by no less a person than Holmes, J. that the legislature should be allowed some play in the joints, because it has to deal with complex problems which do not admit of solution through any doctrinaire or strait-jacket formula and this is particularly true in case of legislation dealing with economic matters, where, having regard to the nature of the problems required to be dealt with, greater play in the joints has to be allowed to the legislature. The court should feel more inclined to give judicial deference to legislative judgment in the field of economic regulation than in other areas where fundamental human rights are involved. Nowhere has this admonition been more felicitous expressed than in *Morey v. Doud* where Frankfurter, J. said in his inimitable style:*

In the utilities, tax and economic regulation cases, there are good reasons for judicial self-restraint if not judicial deference to legislative judgment. The legislature after all has the affirmative responsibility. The courts have only the power to destroy, not to reconstruct. When these are added to the complexity of economic regulation, the uncertainty, the liability to error, the bewildering conflict of the experts, and the number of times the judges have been overruled by events - self-limitation can be seen to be the path to judicial wisdom and institutional prestige and stability.

The Court must always remember that "legislation is directed to practical problems, that the economic mechanism is highly sensitive and complex, that many problems are singular and contingent, that laws are not

abstract pro-positions and do not relate to abstract units and are not to be measured by abstract symmetry"; "that exact wisdom and nice adaption of remedy are not always possible" and that "judgment is largely a prophecy based on meagre and uninterpreted experience". Every legislation particularly in economic matters is essentially empiric and it is based on experimentation or what one may call trial and error method and therefore it cannot provide for all possible situations or anticipate all possible abuses. There may be crudities and inequities in complicated experimental economic legislation but on that account alone it cannot be struck down as invalid. The courts cannot, as pointed out by the United States Supreme Court in Secretary of Agriculture v. Central Roig Refining Company, be converted into tribunals for relief from such crudities and inequities. There may even be possibilities of abuse, but that too cannot of itself be a ground for invalidating the legislation, because it is not possible for any legislature to anticipate as if by some divine prescience, distortions and abuses of its legislation which may be made by those subject to its provisions and to provide against such distortions and abuses. Indeed, howsoever great may be the care bestowed on its framing, it is difficult to conceive of a legislation which is not capable of being abused by perverted human ingenuity. The Court must therefore adjudge the constitutionality of such legislation by the generality of its provisions and not by its crudities or inequities or by the possibilities of abuse of any of its provisions. If any crudities, inequities or possibilities of abuse come to light, the legislature can always step in and enact suitable amendatory legislation. That is the essence of pragmatic approach which must guide and inspire the legislature in dealing with complex economic issues.

Thus, a Constitution Bench emphasized that laws dealing with economic activities "are viewed with greater latitude than laws touching civil rights", because such measures involve "evaluation of diverse economic

criteria” and “balancing of conflicting social and economic values and interests”. The Court cautioned that, when the State is experimenting in the economic field to address complex problems, courts should not strike down such measures “unless they are clearly violative of the constitutional provisions or are manifestly arbitrary or irrational”. That principle applies with equal force to an industrial development corporation which frames and refines policies for land allotment to secure industrial growth.

33. The policy of priority allotment and online applications is, in essence, an incident of the State’s economic and industrial policy. In *State of M.P. v. Nandlal Jaiswal*, (1986) 4 SCC 566,

34. But, while considering the applicability of Article 14 in such a case, we must bear in mind that, having regard to the nature of the trade or business, the Court would be slow to interfere with the policy laid down by the State Government for grant of licences for manufacture and sale of liquor. The Court would, in view of the inherently pernicious nature of the commodity allow a large measure of latitude to the State Government in determining its policy of regulating, manufacture and trade in liquor. Moreover, the grant of licences for manufacture and sale of liquor would essentially be a matter of economic policy where the Court would hesitate to intervene and strike down what the State Government has done, unless it appears to be plainly arbitrary, irrational or mala fide. We had occasion to consider the scope of interference by the Court under Article 14 while dealing with laws relating to economic activities in R. K. Garg v. Union of India”.

*We pointed out in that case that laws relating to economic activities should be viewed with greater latitude than laws touching civil rights such as freedom of speech, religion, etc. We observed that the legislature should be allowed some play in the joints because it has to deal with complex problems which do not admit of solution through any doctrinaire or strait-jacket formula and this is particularly true in case of legislation dealing with economic matters, where, having regard to the nature of the problems required to be dealt with, greater play in the joints has to be allowed to the legislature. We quoted with approval the following admonition given by Frankfurter, J. in *Morey v. Dond*:*

In the utilities, tax and economic regulation cases, there are good reasons for judicial self-restraint if not judicial deference to legislative judgment. The legislature after all has the affirmative responsibility. The courts have only the power to destroy, not to reconstruct. When these are added to the complexity of economic regulation, the uncertainty, the liability to error, the bewildering conflict of the experts, and the number of times the judges have been overruled by events self-limitation can be seen to be the path to judicial wisdom and institutional prestige and stability.

What we said in that case in regard to legislation relating to economic matters must apply equally in regard to executive action in the field of economic activities, though the executive decision may not be placed on as high a pedestal as legislative judgment insofar as judicial deference is concerned. We must not forget that in complex economic matters every decision is necessarily empiric and it is based on experimentation or what one may call 'trial and error method' and, therefore, its validity cannot be tested on any rigid "a priori considerations or on the application of any strait-jacket formula. The Court must while adjudging the constitutional validity of an executive decision relating to economic matters grant a certain measure of

freedom or play in the joints' to the executive. "The problem of government" as pointed out by the Supreme Court of the United States in Metropolis Theatre Co. v. State of Chicago

are practical ones and may justify, if they do not require, rough accommodations, illogical, it may be, and unscientific. But even such criticism should not be hastily expressed. What is best is not discernible, the wisdom of any choice may be disputed or condemned. Mere errors of government are not subject to our judicial review. It is only its palpably arbitrary exercises which can be declared void.

The Government, as was said in Permian Basin Area Rate cases, is entitled to make pragmatic adjustments which may be called for by particular circumstances. The Court cannot strike down a policy decision taken by the State Government merely because it feels that another policy decision would have been fairer or wiser or more scientific or logical. The Court can interfere only if the policy decision is patently arbitrary, discriminatory or mala fide. It is against the background of these observations and keeping them in mind that we must now proceed to deal with the contention of the petitioners based on Article 14 of the Constitution.

Thus, another Constitution Bench dealt with a challenge to a liquor licensing policy on the ground of alleged discrimination and lack of auction. The Court held that policies in the realm of economic regulation are not to be tested by the same standard of strict scrutiny as penal or civil rights legislation, and that "the court would be slow to interfere with the policy decision of the State Government" so long as it is not "patently arbitrary, discriminatory or mala fide". That reasoning

reinforces the conclusion that a court exercising writ jurisdiction must accord latitude to MIDC's policy choices in structuring its allotment mechanisms.

34. The Supreme Court has also repeatedly underlined that decisions involving disinvestment, commercial structuring or strategic economic choices are primarily for the executive, subject only to a limited scrutiny on the touchstone of arbitrariness, illegality or mala fides. In *BALCO Employees Union (Regd.) v. Union of India*, (2002) 2 SCC 333,

92. In a democracy, it is the prerogative of each elected Government to follow its own policy. Often a change in Government may result in the shift in focus or change in economic policies. Any such change may result in adversely affecting some vested interests. Unless any illegality is committed in the execution of the policy or the same is contrary to law or mala fide, a decision bringing about change cannot per se be interfered with by the court.

93. Wisdom and advisability of economic policies are ordinarily not amenable to judicial review unless it can be demonstrated that the policy is contrary to any statutory provision or the Constitution. In other words, it is not for the courts to consider relative merits of different economic policies and consider whether a wiser or better one can be evolved. For testing the correctness of a policy, the appropriate forum is Parliament and not the courts. Here the policy was tested and the motion defeated in the Lok Sabha on 1-3-2001.

Thus, the Court observed that economic policies are based on “expertise and experimentation” and that “wisdom and advisability of economic policies are ordinarily not amenable to judicial review” unless they infringe constitutional or statutory provisions. The MIDC scheme impugned before this Court is a manifestation of such policy choices in the field of industrial development and deserves similar deference.

35. Viewed through the lens of Article 14 as it now stands after the development of the doctrine of manifest arbitrariness, the test is whether the policy or its implementation is capricious, irrational or lacking in any determining principle. In *Shayara Bano v. Union of India*, (2017) 9 SCC 1,

95. On a reading of this judgment in Natural Resources Allocation case it is clear that this Court did not read McDowell as being an authority for the proposition that legislation can never be struck down as being arbitrary. Indeed the Court, after referring to all the earlier judgments, and Ajay Hasia in particular, which stated that legislation can be struck down on the ground that it is "arbitrary" under Article 14, went on to conclude that "arbitrariness" when applied to legislation cannot be used loosely. Instead, it broad based the test, stating that if a constitutional infirmity is found, Article 14 will interdict such infirmity. And a constitutional infirmity is found in Article 14 itself whenever legislation is "manifestly arbitrary" i.e. when it is not fair, not reasonable, discriminatory, not transparent, capricious, biased, with favouritism or nepotism and not in pursuit of promotion of healthy competition and equitable treatment. Positively speaking, it should

conform to norms which are rational, informed with reason and guided by public interest etc.

Thus, the Supreme Court held that a law or rule would be “manifestly arbitrary” if it is “not fair, not reasonable” and “disproportionate, excessive or otherwise manifestly unreasonable”. The MIDC policy is the very antithesis of such arbitrariness: it is founded on an intelligible differentia (thrust sector investors meeting specified criteria), is anchored in the economic and industrial policy of the State, and prescribes a clear procedural framework of online application, scrutiny, and consideration by the Land Allotment Committee.

36. From a constitutional perspective, the shift to an online system is best understood as part of the State’s attempt to fulfill its obligation of ensuring transparent and accountable governance. The architecture of e-governance, when properly designed, can be an instrument to actualize the mandate of Article 14 by reducing the zone of unguided discretion, minimizing human interface and standardizing the application of norms. The online-only requirement in the present case does not operate as an arbitrary barrier but it applies uniformly to all prospective applicants in the priority category it is preceded and accompanied by public circulars; and it is addressed to a class of industrial entrepreneurs who are fully capable of accessing and using digital platforms. Concerns about

exclusion due to digital divide, which may arise in the context of welfare benefits or basic entitlements, do not present themselves with the same intensity when the affected class comprises sophisticated commercial entities seeking industrial plots.

37. It is also of significance that the MIDC policy is not a bare conferment of largesse, but an instrumentality for securing the Directive Principles. Article 38 enjoins the State to strive to promote the welfare of the people by securing a social order informed by social, economic and political justice, while Article 39(b) directs that the ownership and control of the material resources of the community be so distributed as best to subserve the common good. Priority allotment to units in thrust sectors and backward regions, governed by objective criteria and channelled through a transparent digital process, is plainly aligned with these constitutional commitments. The policy, far from being suspect, is a vehicle through which the State deploys its resources to catalyse industrial growth, employment and regional balance.

38. In *Villianur Iyarkkai Padukappu Maiyam v. Union of India*, (2009) 7 SCC 561,

168. In a democracy, it is the prerogative of each elected Government to follow its own policy. Often a

change in Government may result in the shift in focus or change in economic policies. Any such change may result in adversely affecting some vested interests. Unless any illegality is committed in the execution of the policy or the same is contrary to law or mala fide, a decision bringing about change cannot per se be interfered with by the court.

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

170. Normally, 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 against public interest because there are large number of considerations, which necessarily weigh with the Government in taking an action.

The Supreme Court reiterated that policy decisions of the executive are not to be interfered with lightly and that it is "the prerogative of each

elected Government to follow its own policy”, subject of course to the policy not being contrary to law or the Constitution. That principle squarely applies where the State and its instrumentalities have consciously adopted a model of digital, criterion-based allotment for industrial lands to advance clearly articulated development objectives.

39. Seen in this constitutional light to accept petitioners plea would, in effect, be to unravel a rational and constitutionally permissible framework of economic and digital governance in order to accommodate an individual who chose not to submit to its discipline. Article 14 does not compel such an outcome. On the contrary, it requires this Court to ensure that those who comply with a transparent, uniformly applicable regime are not prejudiced by an ad hoc relaxation in favour of those who did not.

40. These principles, in our view, directly answer the petitioner’s constitutional objection. There is no absolute rule that all lands held by public bodies must in every case be allotted only by advertisement and tender. What is required is that the policy adopted must be rational, must serve a legitimate public purpose, must not be arbitrary or discriminatory, and must provide equal opportunity to all persons who are similarly situated within the framework of that policy.

41. The MIDC policy of priority allotment, as seen from the circulars of 2007, 2008, 2012, 2016, 2018 and 2023, is founded on the objective of promoting industrial development in designated areas by attracting investments in identified thrust sectors creates a distinct class of beneficiaries namely, entrepreneurs who satisfy specified criteria of investment, sector, employment generation and location. That classification is clearly rational and bears a direct nexus with the object of the MIDC Act and the State's Industrial Policy. The policy does not exclude the general public from consideration as a matter of arbitrary favour; rather, it creates a legitimate and reasonable sub-class for preferential treatment, which is permissible under Article 14.

42. Within this policy framework, MIDC has adopted the online mode of application. Far from being a device to exclude persons, the online system, accompanied by publicized circulars specifying eligibility criteria and procedure, fosters transparency, eliminates scope for manipulation at the application stage, and simplifies scrutiny. Any person who satisfies the prescribed criteria may access the online portal and submit an application. The requirement of online submission is procedural and uniformly applicable to all prospective applicants in the priority category. There is nothing inherently arbitrary or exclusionary about it.

43. In that sense, the MIDC policy does not resemble the situation in

Akhil Bhartiya Upbhokta Congress, where a single entity was picked out for favoured treatment without any rational policy or process. Rather, it is closer to the category of cases recognized by the Supreme Court where the State, consistent with its policy, may allocate land or contracts to a defined class of beneficiaries such as institutions, cooperatives, or units in backward areas without auction, provided that the criteria are transparent and applied uniformly.

44. The Division Bench decision in **Bhrastachar Nirmoolan Sangathana v. State of Maharashtra** (Supra) reinforces this position in the context of MIDC land allotments. The Court there held that, once the Land Disposal Regulations which empower MIDC to make allotments by entertaining direct applications are not challenged, and where the allotments are made in accordance with those regulations and are not shown to be arbitrary or mala fide, the mere absence of public advertisement does not vitiate the allotments. That principle squarely applies here.

45. Thus, the petitioner's broad proposition that MIDC's priority allotment policy and online system are per se unconstitutional because they do not involve advertisement and tender of each plot to the public at large cannot be accepted. The constitutional requirement is equality

among equals, not an abstract insistence on auction in every circumstance. These MIDC policies, being founded on reasonable classification and a transparent, uniform procedure, is constitutionally valid.

46. Turning now to the application of the policy in the facts of this case, the question is whether the petitioner has shown any arbitrary or discriminatory treatment against him. It is undisputed that his applications were submitted offline. It is also undisputed that they were incomplete, lacking essential documents such as mandatory documents of partnership registration, net-worth certificate and a detailed project report in the prescribed format. They were, therefore, ineligible under the prevailing policy, which required complete online applications for consideration under the priority allotment category. MIDC rejected the petitioner's applications on 07.07.2023 and 29.08.2023, with reasons recorded and communicated. Admittedly, the petitioner has not challenged those rejection orders nor demonstrated that those documents are available with him even now.

47. In contrast, respondent No. 9 submitted a complete online application on 04.09.2023, for a project falling within an approved thrust sector, supported by a detailed project report, net-worth certificate and other requisite documents. The application was scrutinized, placed

before the LAC along with other online applications, and considered on its merits. The LAC, in its meeting of 25.09.2023, decided to allot the plot to respondent No. 9, rejecting one application and deferring three others. There is nothing in the record to suggest that respondent No. 9 was preferred on any extraneous ground or that the petitioner was similarly situated in terms of compliance with the policy.

48. The petitioner's reliance on alleged seniority in a list of applications is misplaced. Under the present policy, mere chronological priority of incomplete or ineligible offline applications confers no right. Seniority, if at all, can be relevant only among eligible applicants who have complied with the prescribed mode of application. To hold otherwise would be to subvert the policy itself and compel MIDC to consider applications that do not even cross the threshold of eligibility.

49. The contention that the online portal for Aurangabad was non-functional is not borne out by the record. Several online applications, including that of respondent No. 9, were successfully submitted and processed for Chikalthana Industrial Area during the relevant period. The screenshots furnished by the petitioner do not convincingly establish a systemic failure. Even assuming that the petitioner faced some technical difficulty on a particular occasion, nothing prevented him from seeking assistance, trying again, or at least complying with the documentary

requirements so that his offline application could be regularised when the portal was functional. Instead, he persisted with incomplete offline filings.

50. As regards the instances cited by the petitioner of other offline allotments, MIDC has adequately explained that those cases either involved subsequent online applications (as in the case of M/s Shivamtika Agro Industries Pvt. Ltd.) or related to public amenities and institutional uses, decided at a different level. The petitioner, a private entrepreneur seeking an industrial plot under the priority allotment category, is not similarly situated with such entities. Article 14 does not mandate indiscriminate parity between unequal classes.

51. No material has been placed before the Court to suggest mala fides, collateral considerations or any ulterior motive in the allotment made to respondent No. 9. The petitioner's allegations of collusion and transfer to third parties are vague and unsupported by credible evidence. Respondent No. 4 has clarified that the change from an individual promoter to an LLP was carried out in accordance with a specific MIDC circular and does not amount to an unlawful transfer.

52. It is also relevant that the allotment in favour of respondent No. 9 has been fully acted upon. Allotment has been made, possession delivered and an agreement to lease has been registered. The law is

well-settled that courts should be slow to interfere with completed transactions in the absence of clear illegality, particularly where third-party rights have intervened and where the allotment advances the statutory objective of industrial development. The petitioner has not demonstrated any such illegality here.

53. In the circumstances, we are of the considered view that: (i) the MIDC policy of allotment of its plots on priority allotment and by online application is constitutionally valid and consistent with Sections 14, 15, 18 and 39 of the MIDC Act and provisions of MIDC Disposal of Land Regulations, 1975. (ii) the said policy does not violate the principle of equal opportunity as elucidated by the Hon'ble Apex Court in its pronouncements such as *Ramana Dayaram Shetty*, *Kasturi Lal Lakshmi Reddy*, *Akhil Bhartiya Upbhokta Congress*, *Natural Resources Allocation*, *In re*; etc and all the other pronouncements which are discussed herein above (iii) the petitioner has failed to establish any arbitrariness, discrimination or mala fides in the allotment of the subject plots to respondent No. 9.

54. The petitioner's grievance essentially arises from his own failure to comply with the prescribed procedure and to challenge, in time, the rejection of his applications. Judicial review under Article 226 cannot be used to confer on him, through a writ of mandamus, a right to allotment which he never acquired in terms of the prevailing policy. The Court

cannot rewrite the policy or compel MIDC to abandon a transparent online system in favour of an ad hoc, offline seniority list which has no legal sanction.

55. Before parting we express gratitude towards learned Amicus Curie for his valuable assistance. For all the aforesaid reasons, the writ petition is devoid of merit and is accordingly dismissed. There shall be no order as to costs.

56. Pending civil application, if any, stands disposed of.

(Hiten S. Venegavkar, J.)

(Smt. Vibha Kankanwadi, J.)

B. S. Joshi