



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.3468/2017

PETITIONERS :

1. Gima Manufacturing Private Limited,
A Company registered under the Companies Act, 2013 (formerly known as Shree Vinay Waste Reclamations Private Limited) having its administrative office at Ram Mandir Ward, Hinganghat through its Director Omprakash Bhikmchandji Joshi, aged about 59 years, R/o Ram Mandir Ward, Hinganghat.
2. Shri Girdhardas Mathuradas Mohta through its Karta Shri Basantkumar Mohta Aged about 60 years, R/o Ram Mandir Ward, Hinganghat.
3. Shri Anuragkumar s/o Basantkumar Mohta Aged about 30 years, R/o Ram Mandir Ward, Hinganghat.
4. Seth Mathuradas Mohta Religious and Charitable Trust, registered under the Bombay Public Trust Act having its office at Ram Mandir Ward, Hinganghat through its Trustee Brajratan s/o Mohanlal Pandia, R/o Ram Mandir Ward, Hinganghat.
5. Smt. Shantadevi Girdhardas Mohta, Aged about 82 years, R/o Ram Mandir Ward, Hinganghat.

...VERSUS...

RESPONDENTS :

1. The State of Maharashtra through its Principal Secretary, Revenue and Forest Department, Mantralaya, Mumbai – 400032.
2. The Sub-Divisional Officer and Nazul Officer, Hinganghat.

Mr. R.M. Bhangde, Advocate for petitioners
Mr. D.V. Chauhan, Senior Advocate/Government Pleader i/b H.D. Marathe, AGP for
respondents/State

**CORAM : NITIN W. SAMBRE AND
SACHIN S. DESHMUKH, JJ.**

Date of reserving the judgment : 23/06/2025

Date of pronouncing the judgment : 02/07/2025

J U D G M E N T : (PER : SACHIN S. DESHMUKH, J.)

1. Heard. Rule. Rule made returnable forthwith. Mr. D.V. Chauhan, learned Senior Counsel/Government Pleader instructed by Assistant Government Pleader Mr. H.D Marathe waives service of notice for the respondents/State. By consent of the parties the petition is heard finally.

2. The petitioners are the holders of permanent and perpetual Nazul lease of the properties belonging to the Government, in whose favour leases were executed by the Government and eventually renewed at the periodical period. So far as renewal of the Nazul lease and re-fixation of lease is concerned, it was governed by the relevant policy promulgated by the Government of Maharashtra at the relevant point of time. Every renewal is governed by the Policy enacted by the Government of Maharashtra in that regard and the same was regulated by the Government Resolutions dated 28/12/2011 vis-a-vis 01/08/2014. It is the further case of the petitioners that the petitioners,

in accordance with the aforestated Government Resolutions, have renewed the leases and accordingly paid the lease amount which was fixed by virtue of the aforestated Government Resolutions. The grievance of the petitioners is in relation to the Government Resolution dated 23/12/2015 pursuant to which the previous Government Resolutions those are superseded. According to the petitioners the effect of the Government Resolution dated 23/12/2015, is that it creates further classification amongst the leaseholders, which is unified class in itself, into those who have renewed lease and those who have not renewed their respective lease. Further contention of the petitioners is that certain concessions are conferred upon the holders of Nazul lease whose renewal is awaited. Granting latitude to those whose renewals are awaited in order to get the renewal done and even the fee charged for such renewal is also reduced substantially, as against those who have regularly renewed their leases like the petitioners. In the aforestated backdrop, the contention put forth by the petitioners is that the Government Resolution which is under challenge, creates a class within class, resulting into discrimination between similarly situated Nazul leaseholders as per Clause (I) (5) of the said Government Resolution. It is also submitted that latitude in favour of lease holders, those who have not renewed the lease, would discourage the lease holders renewing their lease regularly. As such, the question is about the sustainability of

the same. In the wake of the same, the petitioners have put forth following prayers:

“(i) *Hold and declare that Clauses (I) (1) & (5) of Government Resolution dated 23/12/2015 are unconstitutional being discriminatory, arbitrary, unreasonable and violative of Article 14 & 19 (1) (G) of Constitution of India.*

(ii) *Be further pleased to direct the respondent no.3 to modify its orders passed in March & April, 2013 by charging rent as per Government Resolution dated 23-12-2015 w.e.f. 1-4-2008 and be further pleased to direct Respondents to refund the excess Nazul rent paid by the Petitioners as per orders passed in March and April, 2013.”*

3. In order to substantiate the said contention, the learned Counsel for the petitioners has placed heavy reliance on the judgment rendered by the Supreme Court in the case of ***Vikram Cement and another Vs. State of Madhya Pradesh and others (2015) 11 Supreme Court Cases 708***, more particularly paragraphs 1 to 7, 10 and 11 in the forestated judgment.

4. Further reliance is also placed by the petitioners herein on the judgment of the this Court in the case of ***The All India Federation of Tax Practitioners and another Vs. Union of India and others, 1997 SCC OnLine Bom 301*** to contend that classification which is sought to be done by virtue of the said impugned clause runs contrary to the very object sought to be achieved and there is also lack of *intelligible differentia* ultimately resulting into discrimination, as such does not

satisfy the twin test as contemplated under Article 14 of the Constitution of India. It is also attempted to be submitted on behalf of the petitioners that the ratio of the judgment rendered by the Apex Court in ***Vikram Cement*** (supra) is that for a particular period every person is required to be treated equally unless there is some higher objective which the Government seeks to achieve, causing further classification incidentally and the case of the petitioners herein is squarely covered by the statement of law in the judgment in ***Vikram Cement*** (supra).

5. Per contra, Mr. Chauhan, the learned Senior Counsel/ Government Pleader for the State has submitted that insofar as Clauses (I) (1) and (5) of Government Resolution dated 23/12/2015 are concerned, in any manner it cannot be regarded as discriminatory, arbitrary or violative of Article 14 vis-a-vis 19 (1) (g) of the Constitution of India since it does not lead to any further classification. It is further submitted that it is the domain of the State Government to frame the policies when it is in relation to financial policies. Therefore, previous policies are reconsidered and reviewed taking into account prevailing circumstances accordingly, the same is put to amendment and the petitioners herein have subjected themselves to such policies at the relevant point of time. Having subjected to such policies, duly accepted and acted upon the same in its letter and spirit, it is not open for the

petitioners herein to seek benefit of the subsequent policy, which is introduced by the State Government in 2015 with specified objective.

6. Accepting and acting upon the prevalent policy, the petitioners herein have renewed their Nazul lease and consequently are availing the benefits of the same. Therefore, it is not open to come and contend contrary to the policy upon which the petitioners herein have acted. The further submission of the learned Government Pleader is that the classification, as is attempted by the petitioners herein, is aimed with an object to ensure every lease is renewed, even by those whose renewals were pending. It was further submitted by the Government Pleader that levy of lease amount and its renewal is within the power of the State and when it comes to the financial policy decision of State in relation to levy of fees or cess, the High Courts in its jurisdiction under Article 226 of the Constitution of India essentially has to be very slow as such the scope of judicial review is narrowed down. In support of the said submission, reliance is placed on the judgment of the Supreme Court in *Union of India and others Vs. A.B.P Private Limited and another (2023) 20 Supreme Court Cases 343*. It is also contended by the Government Pleader that the reliance placed by the petitioners herein in *Vikram Cement* (supra) is unjustified as the object behind the Government Resolution is to ensure renewal by every leaseholder, which in any case cannot be regarded as contrary to the object sought to be

achieved. The leniency shown towards the pending renewals is to facilitate them to renew the lease and to ensure that the lease amount is credited with the public exchequer. The same will facilitate the State of Maharashtra to collect the lease amount by way of such renewals. Thus, in the wake of aforestated solitary object, Clause 5 of the Government Resolution has been incorporated and introduced. Therefore, prayed for dismissal of the petition.

7. Having considered the rival submissions from the litigating side it appears that undoubtedly the petitioners are the holders of permanent and perpetual Nazul lease of the properties indicated in the memo of petition. It is also matter of record that renewals of Nazul lease were governed by the relevant policies which were in vogue at the relevant point of time. As submitted by the learned Counsel for the petitioners herein that initially it was the Government Resolution dated 28/12/2011 which was superseded by the subsequent Government Resolution dated 01/08/2014. It is noteworthy that the petitioners while ensuring the renewal of the Nazul lease in their favour have accepted the terms and conditions incorporated in those Government Resolutions and eventually paid the lease amount with a view to ensure that the lease in their favour continues and is renewed.

8. Having accepted and acted upon the same and eventually deposited the Nazul lease amount as per the relevant policy at the

relevant time of renewal, it is really not open now for the petitioners herein to seek advantage, in the wake of the change in policy at a later juncture, which is introduced by the Government on 23/12/2015 wherein certain latitudes are conferred so as to ensure that all pending leases are put to renewals. Although the submission on behalf of the petitioners about creating class in itself appears to be attractive, however, same deserves no consideration on the ground that the petitioners are the holders of permanent and perpetual Nazul leases of the properties of the Government. The renewal of the same and payment of lease amount is undoubtedly regulated by the policy which is in vogue at the relevant point of time, but for certain latitudes in favour of the pending renewals, which in our considered view, is to facilitate the renewal of the permanent and perpetual Nazul lease in favour of such lessees.

9. Nevertheless, it is for the Government to decide the policy and when it comes to levy of financial and fiscal matter or the payment of fees or cess, this Court ought to be slow while interfering in the State's decision to come out with the policy which is essentially and permanently aimed to facilitate renewal of leases in accordance with the policy which is in vogue. The reliance placed by the learned Counsel for the petitioners on the judgment in *Vikram Cement* (supra) is concerned, it may not be of any assistance for the solitary reason that the aim

which is indicated in the Clauses – (I) (1) and (5) of the Government Resolution dated 23/12/2015 is to facilitate the leaseholders to get leases renewed in accordance with the policy, therefore, in our considered view it does not create or leads to any further classification amongst similarity situated class of lessees. The object is also rather apparent which is surfacing from Clause 5 is to facilitate the renewal of lease, in relation to the Nazul properties belonging to the Government are awaited.

10. Apart from the aforesaid aspect, the respondent has rightly placed reliance on the judgment in *Union of India Vs. A.B.P. Private Limited* (supra) wherein the Apex Court has laid down that once it is recognized that it is the executive's exclusive domain, in fiscal and economic matters to determine the nature of classification, the extent of levy to be imposed and the factors relevant for either granting, refusing or amending exemptions, the role of the Court is confined to decide if its decision is backed by reasons, germane and not irrelevant to the matter. Although the judicial scrutiny can also extend to consideration of legality and bona fides of the decision. The wisdom or unwisdom and the soundness of reasons or their sufficiency cannot be proper subject matters of judicial review. Therefore, object is rather aimed to ensure that all pending renewals of lease are put to renewal.

11. Thus, these observations are sufficient to repel the contentions raised on behalf of the petitioners that the State has grossly erred in further classifying between the lessees, more particularly the petitioners having renewed their leases by depositing the amount, on the contrary the State has by conferring latitude in favour of the holders of Nazul lease where renewal is pending while incorporating the clause facilitating such pending renewals of lease to renew their leases.

12. Equally, we are further guided by the judgment of the Coordinate Bench of this Court in *The All India Federation of Tax Practitioners* (supra) wherein challenge was raised in relation to Voluntary Disclosure of Income Scheme (VDIS), wherein the identical ground, as has been put forth in the present petition, that such VDI Scheme would encourage the people to evade the payment of tax and floating of the scheme would discourage the honest tax payers. While accepting and applying the said settled principle of law that in the fiscal matter it is executive's exclusive domain to determine the nature of classification, the challenge to the Voluntary Disclosure of Income Scheme (VDIS) was eventually rejected by the Co-ordinate Bench of this Court.

13. As such, we find no substance in the contention put forth by the petitioners that it leads to further micro classification amongst similarly situated class or Nazul lease in property holders. The petitioners could not substantiate the said contention by placing any material on record that the decision is not backed by reason nor is germane and equally same is grossly irrelevant to the matter. Therefore, the judicial review in relation to such policy is rather impermissible unless the element of absence of reason or irrelevant factors are demonstrated by the petitioners. In absence of the same, we are not convinced to accept the contention put forth by the petitioners that such latitude to ensure pending renewal would discourage the lessees those who are periodically and regularly renewing the Nazul lease and it would rather encourage to avoid renewal at regular intervals.

14. Equally, the Government Resolution cannot be termed as unjust or unfair. In absence of the fact that the levy or determination of the fees is to encourage the renewal of pending lease by the leaseholders, therefore, same cannot be regarded as irrelevant or not germane. Nevertheless same is sufficiently supported by the object. As such, in our considered view, the same cannot be regarded as arbitrary as asserted by the petitioners herein. The Government has issued the Resolution incorporating the clause facilitating renewal of pending lease, which is put to challenge is in absence of any material on record.

On the contrary the reasons are rather relevant to the object with which it has been promulgated. Apart from the aforesaid aspect, the clause satisfies the twin test, as contemplated by Article 14 of the Constitution of India of *intelligible differentia* and the object sought to be achieved. Therefore, the contention raised on behalf of the petitioners of it being arbitrary cannot be accepted.

15. As stated herein above, the object of the State is essentially and predominantly to ensure that the pending Nazul leases are put to renewal by each leaseholders and in the process the facility is provided by virtue of Clauses (1) and (5) of (I) of the said Government Resolution. Thus, in the light of the aforesaid facts, we do not find anything inappropriate in clause under challenge. Therefore, in our considered view the petition deserves to be dismissed. The same is accordingly dismissed. Rule stands discharged. No order as to costs.

(SACHIN S. DESHMUKH, J.)

(NITIN W. SAMBRE, J.)