



2025:DHC:10509-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment reserved on: 04.11.2025
Judgment pronounced on: 24.11.2025

+ LPA 435/2006 & CM APPL. 51585/2025 (For Amendment of the Memo of Parties on b/o of Appellant No.1)

OSWAL CHEMICALS AND FERTILIZERAppellant

Through: Mr. Akshit Pradhan and Ms. Muskan Goyal, Advocates for A-1.

Ms. Surekha Raman,
Mr. Yashwant Sanjenbam and
Mr. Shreyash Kumar,
Advocates for applicant/
impleaded party.

versus

UOI & ORS.Respondents

Through: Mr. Rakesh Kumar, SPC along with Mr. Sunil, Advocate for R-1/UoI.

+ W.P.(C) 8965/2006, CM APPL. 6605/2006 (For Dir.) & CM APPL. 68568/2025 (For amendment of the memo of parties by P-1)

M/S OSWAL CHEMICALS AND FERT.LTD.Petitioner

Through: Mr. Akshit Pradhan and Ms. Muskan Goyal, Advocates for P-1.

versus

UOI & ANR.Respondents

Through: Mr. Rakesh Kumar, SPC along with Mr. Sunil, Advocate for R-1/UoI.

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LPA 435/2006 & W.P.(C) 8965/2006

Page 1 of 25



CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. **LPA 435/2006** has been preferred under Clause 10 of the Letters Patent assailing the **Judgment dated 06.01.2006¹** passed by the learned Single Judge in W.P.(C) No. 3919/2002, whereby the learned Single Judge dismissed the Writ Petition preferred by the Appellants challenging the fixation of the **Provisional Retention Price²** and **Final Retention Price³** determined by the **Fertilizer Industry Coordination Committee⁴**, as well as the determination of **Debt-Equity Ratio⁵** and the calculation of capital cost pertaining to the Appellant Company's fertilizer project.
2. **W.P.(C) 8965/2006** has been filed under Article 226 of the **Constitution of India⁶** by the Petitioner, which is aggrieved by the Respondents' demand for approximately Rs. 109 Crores towards interest purportedly payable on the delayed repayment of the principal amount of the excess subsidy earlier disbursed to the Petitioner.
3. The outcome of W.P.(C) 8965/2006 shall be contingent upon the final decision in LPA 435/2006.

BRIEF FACTS:

4. The background of the matter traces back to the issuance of a

¹ Impugned Order

² PRP

³ FRP

⁴ FICC

⁵ DER

⁶ Constitution



Letter of Intent⁷ dated 12.07.1989 by the Respondent authorities in favour of the Appellant company for setting up a fertilizer manufacturing unit. The said LOI imposed various conditions, including Condition (vi) stipulating that the DER for the project “will be 2.5:1”. This forms an important facet of the present dispute.

5. The capital cost of the project was initially fixed at ₹695 crores under Condition (xv) of the LOI. Subsequently, the Appellants sought relaxation of this ceiling, which was allowed by the Government *vide* letter dated 07.01.1993, subject to the stipulation that the subsidy and retention price would be determined by the FICC as per the principles applicable to other fertilizer units at that time.

6. The Appellants, however, contended that due to various external circumstances, delays, and additional investments, the DER of 2.5:1 ought to be treated as an upper ceiling and not as a fixed ratio. The Respondents did not accept this contention, maintaining that the 2.5:1 ratio was specifically agreed to and formed the basis for issuance of the LOI and subsequent subsidy computations.

7. Between 1993 and 2000, a series of representations and correspondences took place. Notably, the Respondents issued a letter dated 03.11.2000, inviting the Appellants for a hearing, following which decisions were taken regarding fixation of FRP.

8. The Writ Petition, W.P.(C) No. 3919/2002, came to be filed thereafter challenging the determination process, methodology, and the decisions of the FICC as being arbitrary and violative of Article 14 of the Constitution.

9. The learned Single Judge, after examining the pleadings, documents, FICC records and rival submissions, rejected the principal

⁷ LOI



reliefs sought. The Single Judge held *inter alia* that:

- a) The DER clause in the LOI was expressed as 2.5:1 and was rightly treated as an operative parameter;
- b) The FICC, as the expert body, had applied a rational and uniform methodology in assessing project cost and retention price;
- c) No perversity, *mala fides* or illegality was shown that would warrant grant of relief; and
- d) Factual disputes requiring evidentiary scrutiny were better suited for a civil forum.

10. Accordingly, the Writ Petition (W.P.(C) No. 3919/2002) was dismissed by Judgment dated 06.01.2006 along with a cost of ₹15,000 in favour of the Respondents.

11. Aggrieved by the aforesaid, the Appellants have preferred the present appeal before this Court.

CONTENTIONS OF THE APPELLANT:

12. The learned counsel for the Appellants would contend that the learned Single Judge erred both on facts and in law in failing to appreciate that the FRP ought to have been determined on the same basis as the PRP, *namely*, by applying the actual DER and not the deemed ratio of 2.5:1. It would be urged that from inception till mid-2002, the Respondents consistently calculated and disbursed subsidy on the basis of the actual DER, and were thus estopped from unilaterally altering the same while fixing the FRP, thereby diminishing the Appellants' legitimate entitlement.

13. It would be contended by the learned counsel for the Appellants that the LOI dated 12.07.1989, which mentioned the DER of 2.5:1,



was linked to the then-prevailing project cost ceiling of ₹695 crores. Once that ceiling was removed and the project cost revised to ₹1,162 crores, the deemed ratio ceased to have relevance. The learned counsel for the Appellants would further submit that the Planning Commission's communication dated 15.12.1999 and the minutes of the 75th meeting of the FICC affirm the principle that where promoters invest beyond the stipulated equity, such excess contribution must be treated as debt for purposes of computing the cost of funds, a principle consistently applied to other fertilizer units but arbitrarily denied to the Appellants, thereby offending Article 14 of the Constitution.

14. The learned counsel for the Appellants would further contend that the learned Single Judge overlooked the fact that the Respondents themselves had, in multiple communications and working papers, adopted the actual DER and revised project cost while fixing the PRP, and hence could not lawfully deviate from that settled methodology at the stage of FRP. The variation of parameters at the final stage, without cogent reason or justification, was arbitrary and contrary to the uniform policy of the Government of India's Resolution dated 01.11.1977, which guarantees a 12% post-tax return on net worth.

15. It would further be submitted by the learned counsel for the Appellants that the learned Single Judge gave undue weight to the Appellants' letters dated 15.01.1997 and 02.05.1997, which were written in a limited context concerning removal of the capital-cost ceiling, and could not constitute a waiver of the Appellants' substantive rights under the policy. The Respondents themselves continued thereafter to compute PRP on the basis of actual DER, demonstrating that no binding concession had been accepted or acted



upon.

16. It would also be urged by the learned counsel for the Appellants that the learned Single Judge's reliance on the Respondents' chart (Application dated 13.10.2003) to conclude that the Appellants achieved 12% post-tax return was misplaced, as those figures were based on a deemed DER and excluded components of capital cost recognised by PDIL. The Appellants' contemporaneous correspondence, including the letter dated 23.08.1999, demonstrates that the actual return realised was approximately 6.69%, falling well short of the guaranteed 12% post tax return.

17. Accordingly, the learned counsel for the Appellants would contend that the Impugned Judgment suffers from legal infirmity, as it failed to recognise that the Respondents' departure from the established methodology for FRP fixation was arbitrary, discriminatory, and contrary to the binding policy assurance of 12% post-tax return. The learned counsel for the Appellants would therefore seek re-fixation of the FRP on the basis of the actual DER and revised project cost, in conformity with the Government Resolution of 1977 and the principle of parity applied to other similarly placed units.

CONTENTIONS OF THE RESPONDENT:

18. **Per contra**, the learned counsel for the Respondents, would support the Impugned Judgment and contend that the DER of 2.5:1 was specifically agreed upon by the Appellants and was an essential term of the LOI dated 12.07.1989. It was not a flexible upper ceiling but a mandatory condition, forming part of the commercial and policy framework under which the project was approved.



19. It would be submitted by the learned counsel for the Respondents that the determination of the retention price and subsidy is a matter involving complex economic and technical considerations within the exclusive domain of the FICC, an expert body constituted for the purpose. Judicial interference in such expert economic determinations is unwarranted except in cases of patent illegality or mala fides.

20. The learned counsel for the Respondents would further argue that the delay and laches in approaching the Court are fatal to the Appellant's case. The original decision dates back to 07.01.1993, and the repeated representations made thereafter cannot extend the period of limitation or revive a stale cause of action.

21. It would be further submitted by the learned counsel for the Respondents that the calculation of capital cost was done uniformly and rationally in line with other fertilizer units, and the methodology was designed to avoid any preferential treatment or violation of Article 14. The principle that there can be no premium on inefficiency was rightly applied in evaluating the actual cost *vis-à-vis* the estimated cost.

22. The learned counsel for the Respondents would also highlight that the Appellant itself, by letters dated 15.01.1997 and 02.05.1997, expressly accepted the DER of 2.5:1 and cannot now resile from that position. The Appellant's present challenge is thus an afterthought.

23. *In sum*, the learned counsel for the Respondents would submit that the Writ Petition was rightly dismissed as devoid of merit, and that the learned Single Judge has correctly upheld the principles of deference to expert economic bodies and limited judicial review in matters of price fixation.



ANALYSIS:

24. Having heard the submissions advanced by learned counsel for both parties, and upon a careful consideration of the pleadings, documents, and the Impugned Judgement, we now proceed to address the questions arising for determination.

25. At the outset, we consider it appropriate to extract the relevant portion of the Impugned Judgement, which reads as follows:

“56) I deem it appropriate to first consider whether *ipso facto* a writ petition would not be the appropriate remedy. The petitioners have strongly relied upon the judgment of **Deepak Fertilizer & Petrochemicals Corporation Ltd.'s case** (supra) to substantiate the plea that such a matter arising from the fixation of price has formed the subject matter of adjudication before the Division Bench of this Court. It is no doubt true that only part of the relief was allowed. What was allowed was on the basis of documents which showed that it had been represented to the petitioner therein that transport cost would be reimbursed. To that extent, the submission of learned ASG is correct. However, the party has not been non-suited on the ground of non-maintainability of the writ petition, but what will have to be considered is whether the facts and circumstances of the case and the matter in issue are such as would be amenable to be considered and decided in writ jurisdiction. I am of the considered view that it cannot be said that a writ petition is *ipso facto* not maintainable. However, the question whether the petitioners are or are not entitled to the relief claimed in the present proceedings is being dealt with hereinafter.

57) The respondents have raised the issue of delay and laches. There is no dispute about the proposition that mere making of representations would not suffice to extend the cause of action and that is what has been the view expressed by the Apex Court in the judgments referred to aforesaid. I am unable to agree with the submission of learned ASG that the matter in issue is one of really impugning only the decision of 07.01.1993. It is not as if the petitioner company was only making representations, but the respondents were entertaining the representations, taking some decision on the same and even giving hearing to the petitioners. There has also been fixation of the FRP after filing of the present writ petition. The respondents themselves asked the petitioners to come for a hearing vide letter dated 03.11.2000 and thereafter took the decision. It would, thus, not be appropriate to non-suit the petitioners merely on the ground of delay and laches since I do not find this case one of such delays and laches.



58) The issue of fixation of the PRP and the FRP is affected by the plea based on the DER. The submission of the petitioners is that the DER of 2.5:1 should be the upper ceiling limit. However, a reading of the Letter of Intent dated 12.07.1989 shows that certain conditions have been imposed as additional conditions. Condition No. (vi) specifically deals with the issue of DER. The phraseology is clear that the DER for the project will be 2.5:1. It is not the upper ceiling limit. This is distinguished from the DER in respect of the other two units where the phraseology is different. In those cases, the DER is required not to exceed 4:1. Thus, a conscious decision has been taken in case of the petitioner company to have the DER of 2.5:1 and the same was accepted by the petitioners.

59) The background in which this DER was fixed cannot be lost sight of. The respondents have pointed out that KRIBHCO, a cooperative society, was a competitor for the unit in question. The projected cost of KRIBHCO was less than that of the petitioner company. Despite this, the project was handed over to the petitioner company and one of the major considerations was the DER. The DER of KRIBHCO was 1:1 while that of the petitioner company was 2.5:1. That being the position, it is not open to the petitioners to now claim that this DER should be read in another manner.

60) It is also relevant to note that the DER has a special meaning in respect of such subsidization of the projects. The ratio of debt-equity has a direct bearing on the extent of the subsidy. This is so since for the debt portion, the FICC pays only actual rate of interest, while for the equity portion, the tax paid and thereafter 12% post-tax profit has to be taken care of. Thus, if the debt component is higher, the subsidy becomes lower. It is, thus, not possible to accept the contention of learned counsel for the petitioners that because the petitioner company was unable to get further loans, no difference would be made by the petitioner company increasing the equity component by bringing in more money through the process of promoters. It may be open for the petitioner company to do so, but for purposes of calculation of subsidy, the DER would be taken as 2.5:1 as the same. Was an important factor in issuance of the letter of intent to the petitioner company and has a major ramification insofar of the subsidy is concerned. It is also in terms of what is stipulated in letter of intent.

61) It is also relevant to note that the petitioner company itself conceded its willingness not to doubt this aspect of DER being 2.5:1 in its communication dated 16.01.1997 (*sic* 15.01.1997). Not only this, the same aspect was repeated vide letter dated 02.05.1997 while requesting for removal of the ceiling for capital cost. This would only show that the petitioners also understood that the DER was liable to be maintained at 2.5:1.

62) I am, thus, of the considered view that the submission based on any variation sought in respect of this DER is misplaced and for



the calculation of subsidy and / or the PRP or the FRP, it is only the ratio of 2.5:1 which is to be taken into account.

63) The next aspect to be considered arises from the mode and manner of calculation of the capital cost. The capital cost was originally fixed at Rs.695 crores in terms of additional condition No. (xv) of the Letter of Intent dated 12.07.1989. It is only subsequently that the request was made by the petitioners seeking increase of this cost and removal of the ceiling. The respondents were willing to accommodate the petitioner company to the 46/52 h there were ramification on the capital cost by delays was so attributable to the Government. This communicated vide letter dated 07.01.1993. However, while according to such removal of ceiling, it was simultaneously communicated that the subsidy would be determined by the FICC on completion of the project on the basis of principles applicable at that time to other fertilizer manufacturing units. Thus, what was sought to be done was that on the one hand relaxation on the ceiling limit was provided for the petitioner company; while on the other hand, it was clearly stipulated that the petitioner company would be dealt with on the same footing as the other units. This has been the consistent stand of the respondents from 1993 onwards.

64) In my considered view, this stand can hardly be said to be arbitrary or irrational as all the units are sought to be treated at par while providing relaxation to the petitioner company. The rationale for this is also explained by the respondents that the retention price is fixed on the basis of certain combination of norms and data provided by the units and there ought not to be perceptible variations while fixing such retention price as the technology is more or less similar. The retention prices may not be identical, but ought to be similar. The working of the capital cost has also been done, in my considered view, on a rational basis. There cannot be a premium on inefficiency and, thus, both the figures of actual cost and estimated cost have been considered. If the actual cost is lower than the estimated cost, that difference would be a proof of the efficiency. However, if the actual cost exceeds the estimated cost, then unless it can be shown that the increase is due to the reasons beyond the control of the management, to accept the actual cost would be a premium on inefficiency.

65) The respondents have given illustrations of how such a principal has been uniformly followed. It is not a case of mere criss-cross as sought to be contended by learned senior counsel for the petitioners. Cogent reasons have been given why reliance has been placed on the report of PDIL, which was prepared after the cap on the capital cost was removed and taking into consideration the delay which could be said to be attributable to the Government. The ICICI report gave estimates which exceeded even the actual cost when the actual cost was available.

66) The most material aspect is that any differentiation in methodology would have invited criticism and would have been



construed to be violative of the norms set out in the Constitution whereby the parties should be treated similarly. It was in order to avoid any such allegation of violation of Article 14 of the Constitution, the same parameter in this behalf was followed. Thus, illustrations have been given in respect of the other two units elsewhere the mode and methodology of calculation is the same as in case of the petitioner company. It is this which has resulted in the FICC taking the figure for the other two units below the actuals. It is not necessary to go into details of the figures which have been set out herein-before and more than illustrate the same. It cannot be lost sight of the fact that the FICC is an expert body set up to carry out this task. The body has representatives of the trade and Chairman of the petitioner company had himself been a member to serve on the body for almost three years. The observations made by the Apex Court in *Shri Sitaram Sugar Company Limited's* case (supra) would, thus, squarely apply. It was held that the Court has neither means nor the knowledge to re-evaluate the factual basis of the impugned orders. In exercise of judicial review, the Court is not concerned with the correctness of the findings of fact on the basis of which the orders are made so long as those findings are reasonably supported by evidence. In *M/s. Gupta Sugar Works's* case (supra), while dealing with the issue of price fixation of essential commodity, the Apex Court had observed that the Court does not act like a Chartered Accountant nor act like an Income Tax Officer and it is not the function of the Court nor is it concerned with an individual case or a particular problem

67) If the aforesaid principles are applied to the decision-making process, in the present case, it cannot be said that the FICC, an expert body, took into consideration extraneous material and / or ignored the cogent material to come to a final figure while determining the FRP.

68) There can be no doubt that the ultimate object of the policy of 01.11.1977 has to be kept in mind to provide for 12% post-tax return on equity. That has, in fact, been kept in mind. The respondents have given the figures of profits of the petitioner company (referred to above in tabular form) to substantiate that if the figures are taken into account, the parameter of 12% post-tax return of equity is more than met. It is certainly not within the domain of the present proceedings to go into the correctness of these calculations. If the respondents adopt a parameter whereby a luxury imported vehicles or recreation centre as gyms are excluded from the capital cost, it can hardly be said that such an approach is erroneous.

69) The reliance on the judgment in *Dr. R.C. Anand's* case (supra) is also of not much assistance to the petitioners. The said judgment analysed the procedure for obtaining legal advice from the Ministry of Law and Justice. The observations, which are important, were that in view of the role of Ministry of Law and



Justice of giving advice on legal matters and interpretation of law under The Government of India (Allocation of Business) Rules, it was not appropriate on the part of the other Ministry to say that it is not bound by the advice given by the Law Ministry. This is not the position in the present case. The question is one of fixation of the retention price and some advice may have been sought on a particular aspect. The into consideration the terms of the licence, the parameters to be followed for others and such other incidental matters. The advice was taken into consideration. It cannot be said to be an advice of the nature purely based on a legal issue which would bind the other Departments. Thus, the Cabinet Committee was well within its rights to determine the parameters. The Importance of the role of the FICC cannot but be emphasized being an expert body. Even at the initial stage while considering the issuance of the Letter of Intent, due care was taken to point out to the intending party that in matters of determination of the retention price, the decision of such committee should be final. The undertakings in this behalf have been signed including by the petitioners. This would, of course, not imply that if a wholly irrational decision contrary to the mandate of the matter was examined by the Cabinet Committee by taking into consideration the terms of the licence, the parameters to be followed for others and such other incidental matters. The advice was taken into consideration. It cannot be said to be an advice of the nature purely based on a legal issue which would bind the other Departments. Thus, the Cabinet Committee was well within its rights to determine the parameters. The Importance of the role of the FICC cannot but be emphasized being an expert body. Even at the initial stage while considering the issuance of the Letter of Intent, due care was taken to point out to the intending party that in matters of determination of the retention price, the decision of such committee should be final. The undertakings in this behalf have been signed including by the petitioners. This would, of course, not imply that if a wholly irrational decision contrary to the mandate of the Constitution or the policy was taken, this Court would be without jurisdiction to interfere with the same. it can, however, not be doubted that this Court would be extremely slow to interfere with the decision of the expert body like the FICC in view of the aforesaid facts.

70) In view of the aforesaid, I am of the considered view that the process followed by the respondents cannot be faulted with in respect of the DER, linkage with other units for determination of the retention price and the calculation of capital cost. If the petitioners still have grievances in respect of certain calculations or matter for which trial would be required, the appropriate remedy would be a civil suit and not the present proceedings under Article 226 of the Constitution.

71) The writ petition is dismissed with the aforesaid observations.



72) The respondents shall be entitled to costs quantified at Rs.15,000/-.”

26. The learned Single Judge has dismissed the challenge advanced by the Petitioners/Appellants to the contention that FRP ought to be re-fixed by taking into account the actual DER rather than pegging it to the DER of 2.5:1, and further that the calculation of FRP ought to have been based on the actual capital cost as incurred or as assessed by the expert agency, and by de-linking the fixation of FRP from the payment of subsidy in respect of *Tata Chemicals Limited* and *Chambal Fertilizers Corporation*.

27. The core issue, as articulated by the Appellants, is that in the absence of re-fixation of the FRP on the basis of the actual DER and capital cost, the guaranteed 12% post-tax return envisaged under the Government Resolution dated 01.11.1977 would not be achieved. According to the Appellants, the Impugned Judgement, to the extent it denies such re-fixation, is unsustainable and warrants interference by this Court in appellate jurisdiction.

28. It is pertinent to note that the learned Single Judge, after a detailed examination of the pleadings, documents, correspondence, and the rival contentions, dismissed the Writ Petition. It was observed that the grievances urged by the Appellant-Petitioner essentially pertained to factual computations requiring evidentiary scrutiny, and hence, the appropriate course would be to institute a civil suit, where such factual issues could be adjudicated upon by leading evidence, rather than through writ proceedings under Article 226 of the Constitution.

29. The learned Single Judge has rendered a structured, issue-wise determination of the principal controversies arising before him, which,



for the sake of clarity and convenience, may be tabulated as follows:

S. No.	Issue	Contentions of the Petitioners/ Appellants	Contentions of the Respondents/UOI	Findings / Decision of the Learned Single Judge
1.	Whether the fixation of FRP linking the Petitioner's unit with Tata Chemicals Ltd. (TCL) and Chambal Fertilizers & Chemicals Ltd. (CFCL) was arbitrary and contrary to policy.	Petitioners contended that linking their FRP with TCL and CFCL was discriminatory and contrary to the Government Resolution dated 01.11.1977 which mandates plant-specific retention price ensuring 12% post-tax return. They argued that their unit should have been treated independently on the basis of its actual cost and capital structure.	Respondents submitted that all three units were similarly situated gas-based plants along the HBJ pipeline; that uniform parameters were applied to avoid favouritism and ensure parity; and that linkage avoided unjustified variations among comparable units.	The learned Single Judge held that linkage of the Petitioner's FRP with other similar units was rational and based on uniform policy considerations. The linkage ensured parity among comparable plants and was not arbitrary or discriminatory.
2.	Whether the Final Retention Price should be fixed on the basis of the actual DER instead	Petitioners contended that the DER of 2.5:1 was only a ceiling, and that once additional promoter	Respondents contended that the DER of 2.5:1 was an essential licensing condition and a decisive factor in granting the	The learned Single Judge held that the DER of 2.5:1 was an express and binding condition in the Letter of Intent



	of the deemed 2.5:1 ratio stipulated in the Letter of Intent dated 12.07.1989.	funding was infused due to financial constraints, the actual DER should govern FRP fixation. They further urged that from 1998 onwards, the PRP was computed on actual DER, creating a legitimate expectation.	project to the Petitioner over other contenders. The Petitioner's own communications dated 15.01.1997 and 02.05.1997 confirmed acceptance of 2.5:1 DER for FRP computation.	and formed part of the basis on which the project was sanctioned. The Petitioners' subsequent letters reaffirmed this ratio. Hence, FRP calculation on 2.5:1 DER was valid.
3.	Whether the capital cost for the Petitioner's project was wrongly assessed by the FICC.	Petitioners asserted that FICC arbitrarily picked elements from multiple reports (PDIL and ICICI) to reduce the approved capital cost, contrary to established practice in comparable cases. They claimed that such selective disallowances deprived them of the full 12% post-tax return assured under the 1977 Resolution.	Respondents argued that FICC, an expert body, followed a uniform methodology - allowing only reasonable costs and disallowing inflated or non-essential expenditures (e.g., luxury cars, recreation centres). PDIL's report was preferred as it reflected realistic costs post-removal of the capital ceiling.	The learned Single Judge found no arbitrariness or procedural impropriety in FICC's methodology. The assessment was based on expert evaluation and consistent with practice applied to other units. Disallowances were rational and did not violate the 12% return policy.



4.	Whether writ jurisdiction under Article 226 was maintainable for the reliefs sought.	Petitioners argued that writ relief was maintainable as the impugned actions were arbitrary, discriminatory, and violative of Government policy under the 1977 Resolution.	Respondents contended that fixation of FRP involved complex factual and technical determinations within the domain of an expert body, and any dispute should be adjudicated in a civil suit, not a writ petition.	The learned Single Judge held that while the writ petition was maintainable in principle, the issues raised involved detailed factual analysis and expert determination not amenable to writ jurisdiction. The proper remedy lay in civil proceedings.
5.	Relief - entitlement to re-fixation of FRP and arrears of subsidy.	Petitioners sought re-fixation of FRP based on actual capital cost and actual DER, de-linking from TCL and CFCL, and payment of differential subsidy from 1995 onwards to achieve 12% post-tax return.	Respondents opposed any modification, maintaining that the fixation by FICC was final and binding and that the Petitioners had achieved a post-tax return exceeding 12% as per verified data.	The learned Single Judge dismissed the writ petition, holding that the process followed by the FICC was neither arbitrary nor discriminatory. The Petitioners had achieved the normative return, and no interference was warranted in judicial review. Costs of ₹15,000 were imposed.



30. Upon careful perusal of the Impugned Judgement and the records, we find no cogent reason to interfere with the well-reasoned findings of the learned Single Judge. The parameters governing judicial review in matters involving price fixation, industrial policy, and expert economic determinations are well-settled. The Court's jurisdiction under Article 226 does not extend to re-evaluating the correctness of technical or economic conclusions reached by expert bodies, absent manifest illegality, *mala fides*, or perversity. Similarly, the jurisdiction of the Appellate Court in Letters Patent Appeals is correspondingly confined to examining the legality and correctness of the jurisdiction actually exercised by the Court below, and does not extend to enlarging or substituting that jurisdiction beyond what the lower Court was competent to exercise.

31. The learned Single Judge has, keeping in view the limited scope of Writ Jurisdiction, examined the issues with precision and has rendered conclusions supported by both law and record. Recently, the Hon'ble Supreme Court once again reiterated the settled scope and ambit of the High Court's writ jurisdiction under Article 226 of the Constitution in *Ajay Singh v. Khacheru*⁸. The Court, while emphasizing judicial restraint in matters involving factual determinations by competent authorities, clearly delineated the limited grounds on which interference under Article 226 may be justified. The relevant portion of the said judgment reads as follows:

“16. It is a well-established principle that the High Court, while exercising its jurisdiction under Article 226 of the Constitution of India, cannot reappreciate the evidence and arrive at a finding of facts unless the authorities below had either exceeded its jurisdiction or acted perversely.

17. On the said settled proposition of law, we must make reference to the judgment of this Court in *Chandavarkar Sita Ratna*

⁸ (2025) 3 SCC 266



Rao v. Ashalata S. Guram [Chandavarkar Sita Ratna Rao v. Ashalata S. Guram, (1986) 4 SCC 447]. The relevant portion thereof reads as under: (SCC p. 458, para 16)

“16. ... It is well settled that the High Court can set aside or ignore the findings of fact of an appropriate court if there was no evidence to justify such a conclusion and if no reasonable person could possibly have come to the conclusion which the courts below have come or in other words a finding which was perverse in law. This principle is well settled. In D.N. Banerji v. P.R. Mukherjee [D.N. Banerji v. P.R. Mukherjee, (1952) 2 SCC 619] it was laid down by this Court that unless there was any grave miscarriage of justice or flagrant violation of law calling for intervention it was not for the High Court under Articles 226 and 227 of the Constitution to interfere. If there is evidence on record on which a finding can be arrived at and if the court has not misdirected itself either on law or on fact, then in exercise of the power under Article 226 or Article 227 of the Constitution, the High Court should refrain from interfering with such findings made by the appropriate authorities.”

(emphasis supplied)

18. The abovesaid proposition of law was reiterated in **Shamshad Ahmad v. Tilak Raj Bajaj [Shamshad Ahmad v. Tilak Raj Bajaj, (2008) 9 SCC 1]**, wherein it was observed that: (SCC pp. 10-11, para 38)

“38. Though powers of a High Court under Articles 226 and 227 are very wide and extensive over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction, such powers must be exercised within the limits of law. The power is supervisory in nature. The High Court does not act as a court of appeal or a court of error. It can neither review nor reappreciate, nor reweigh the evidence upon which determination of a subordinate court or inferior tribunal purports to be based or to correct errors of fact or even of law and to substitute its own decision for that of the inferior court or tribunal. The powers are required to be exercised most sparingly and only in appropriate cases in order to keep the subordinate courts and inferior tribunals within the limits of law.”

19. Observations similar in nature were made in **Krishnanand v. State of U.P. [Krishnanand v. State of U.P., (2015) 1 SCC 553; (2015) 1 SCC (Civ) 584]**, wherein it was held that: (SCC p. 557, para 12)

“12. The High Court has committed an error in reversing the findings of fact arrived at by the authorities below in coming to the conclusion that there was a partition. No doubt, the High Court did so in exercise of its jurisdiction



under Article 226 of the Constitution. *It is a settled law that such a jurisdiction cannot be exercised for reappreciating the evidence and arrival of findings of facts unless the authority which passed the impugned order does not have jurisdiction to render the finding or has acted in excess of its jurisdiction or the finding is patently perverse.*"

(emphasis supplied)

32. With respect to the Appellants' submission regarding the alleged incorrect fixation of the retention price on the basis of linkage with two other units, we find no infirmity in the conclusion of the learned Single Judge. The linkage of the Appellants' FRP with other comparable units was both rational and consistent with the uniform policy framework adopted by the Government. The objective of such linkage was to ensure parity and maintain a level playing field across similar plants. This methodology, being rooted in objective and industry-wide criteria, cannot, by any measure, be characterised as arbitrary, discriminatory, or contrary to established policy considerations.

33. Regarding the DER, the contemporaneous record decisively demonstrates, upon which the learned Single relied and concluded that the Appellants had themselves, through their letters dated 15.01.1997 and 02.05.1997, unequivocally agreed to the adoption and application of a DER of 2.5:1. The relevant portion of the Appellants' letter dated 15.01.1997 reads as under:

"The Department of Fertilizers is also aware that in spite of our best efforts in which we were duly assisted by the Department of Fertilizers by its intervention in writing to the Ministry of Finance, the company was unable to obtain higher amount of term loans and was finally sanctioned only a sum of Rs.555 crores as debt. However, the company is willing to concede that its Retention Price may be calculated at a deemed Debt Equity ratio of 2.5: 1. In this manner, the company will be able to obtain a return only at the rate applicable to long-term loans in respect of the additional amount raised by promoters/Group Companies to meet the gap in



means of finance. This shall reduce the retention price per tonne of Urea. On this basis, we are enclosing a calculation of Ad-hoc price on both the alternatives, which clearly shows that even at the ad-hoc stage, our retention price works out to be higher than Rs.6547 being presently given to us.”

34. The same position is expressly reiterated in the Appellants’ subsequent letter dated 02.05.1997, leaving no room for doubt that the Appellants had consciously accepted and proceeded on the basis of a DER of 2.5:1.

35. We also find substantial merit in the Respondents’ submissions that the FICC, being a specialized and expert body operating within the policy framework of the Government of India, is vested with the exclusive mandate to determine parameters such as retention price and subsidy. These determinations involve complex, technical, and sector-specific considerations that lie squarely within the domain of expert assessment.

36. In the present case, the FICC has duly exercised this mandate. The Appellants, having voluntarily accepted the policy structure, participated in its implementation, and given explicit undertakings to abide by it, cannot now seek to renege from their earlier position or urge this Court to replace well-settled technical determinations. The law does not permit such retreat from express commitments nor such substitution of expert judgment with judicial opinion absent demonstrable arbitrariness, which is wholly lacking here.

37. Furthermore, we note an additional issue raised in the Appeal, though not pursued during oral arguments, *namely*, the Appellants’ assertion that they had not achieved the 12% post-tax return. This contention was duly considered by the learned Single Judge, and nothing has been brought before us to dislodge the reasoning adopted



in that regard.

38. The learned Single Judge, relying on the detailed computations placed on record by the Respondents, concluded that the Shahjahanpur unit had, on the basis of figures submitted before the FICC, earned an average post-tax return of 18.7%. The only challenge to this conclusion, as articulated in the Appeal, is the following:

“Because the Learned Single Judge erred in making observation in Para 68 of the Impugned Judgement and wrongly came to the conclusion that the Appellants were getting 12% Post Tax Return of equity. The reference made to ANNEXURE-E to the Application of the Respondents filed on 13.10.2003 was totally misconceived. These projections were made by the respondents by not giving the benefit of actual DER to the Appellants and these were also not based on the Capital Cost of the PDIL taken as a whole. As against this, the Appellants had been consistently making representations to the Respondents to rework the retention price correctly. Attention of this Hon'ble Court is drawn to the Chart enclosed with the Appellant's letter dated 23.08.1999 wherein it is clearly shown that what the Appellants were getting was return of 6.69% only. In fact, the letters filed by the Appellants on record repeatedly show that the Appellants had been protesting as they were not getting 12% Post Tax Return. The letter dated 02.02.2000 also clearly show that the Appellants were getting only 6.69% Post Tax Return. Thus, the Learned Single Judge's reliance on the unilateral Chart filed by the Respondents as ANNEXURE-E to the Application dated 13.10.2003 was totally misplaced.”

39. A careful examination of the record reveals that the Appellants' objections to the computation are rooted entirely in their own assumptions about how the FDR should have been calculated. The Appellants' challenge is not based on any demonstrable error in the calculations undertaken by the expert body, but rather on their disputed views regarding the correct DER and the capital-cost base, issues that have already been considered in depth and rejected by the learned Single Judge. Once those foundational contentions stand negated, the consequential challenge to the computation of returns necessarily loses all force.



40. We are of the considered view that the Appellants' grievance is, at its core, an attempt to substitute their preferred economic interpretation for that of a duly constituted expert committee. In this regard, the Courts have repeatedly reiterated that matters involving technical evaluations, economic modelling, and policy-based computations are entrusted to specialized bodies precisely because they require sectoral knowledge and expertise. Judicial review, as noted earlier, does not extend to re-assessing such technical determinations unless they suffer from patent illegality, arbitrariness, *mala fides*, or procedural unfairness, none of which has been established in the present case. A mere difference of opinion on methodology or assumptions, without any substantive infirmity in the process or decision itself, cannot justify interference by this Court. The law in this regard has been succinctly laid down in the Judgement of the Hon'ble Supreme Court in *Federation of Railway Officers Association v. Union of India*⁹. The relevant excerpts of the Judgement are reproduced herein for reference:

12. In examining a question of this nature where a policy is evolved by the Government judicial review thereof is limited. When policy according to which or the purpose for which discretion is to be exercised is clearly expressed in the statute, it cannot be said to be an unrestricted discretion. On matters affecting policy and requiring technical expertise the court would leave the matter for decision of those who are qualified to address the issues. Unless the policy or action is inconsistent with the Constitution and the laws or arbitrary or irrational or abuse of power, the court will not interfere with such matters.

18. Further, when technical questions arise and experts in the field have expressed various views and all those aspects have been taken into consideration by the Government in deciding the matter, could it still be said that this Court should re-examine to interfere with the same. The wholesome rule in regard to judicial interference in administrative decisions is that if the Government

⁹ (2003) 4 SCC 289



takes into consideration all relevant factors, eschews from considering irrelevant factors and acts reasonably within the parameters of the law, courts would keep off the same. Even on the test suggested by Dr Pal, we cannot travel outside this principle to sit in appeal on the decision of the Government.

(emphasis supplied)

41. Similarly, the aforesaid notion was reiterated in the Judgement of the Hon'ble Supreme Court in ***BTL EPC Ltd. v. Macawber Beekay Pvt Ltd and Others***¹⁰. The relevant excerpts of the Judgement are reproduced herein for reference:

35. It is settled law that in contracts involving complex technical issues, the Court should exercise restraint in exercising the power of judicial review. Even if a party to the contract is 'State' within the meaning of Article 12 of the Constitution, and as such, is amenable to the writ jurisdiction of the High Court or the Supreme Court, the Court should not readily interfere in commercial or contractual matters. This principle has been reiterated in a recent judgment of this Court. Justice J B Pardiwala, speaking for the Bench in ***Tata Motors Limited v. BEST*** held:

"48. This Court being the guardian of fundamental rights Is duty- bound to Interfere when there Is arbitrariness, irrationality, mala fides, and bias However, this Court has cautioned time and again that courts should exercise a lot of restraint while exercising their powers of judicial review In contractual or commercial matters This Court Is normally loathe to Interfere In contractual matters unless a clear-cut case of arbitrariness or mala fides or bias or Irrationality Is made out One must remember that today many public sector undertakings compete with the private industry The contracts entered Into between private parties are not subject to scrutiny under writ jurisdiction. No doubt, the bodies which are State within the meaning of Article 12 of the Constitution are bound to act fairly and are amenable to the writ jurisdiction of superior courts but this discretionary power must be exercised with a great deal of restraint and caution. The courts must realise their limitations and the havoc which needless Interference in commercial matters can cause. In contracts Involving technical issues the courts should be even more reluctant because most of us in Judges' robes do not have the necessary expertise to adjudicate upon technical Issues beyond our domain. The courts should not use a magnifying glass while scanning the tenders and make

¹⁰ 2023 INSC 864.



every small mistake appear like a big blunder. In fact, the courts must give fair play In the Joints' to the government and public sector undertakings In matters of contract. Courts must also not Interfere where such interference will cause unnecessary loss to the public exchequer.”

(emphasis supplied)

42. We therefore find the reasoning of the learned Single Judge to be both cogent and legally sound. His observation that any dispute regarding the factual determination of the Appellants’ actual returns, if at all, would require a civil suit where evidence can be led and tested, is entirely justified. Such factual recalibration cannot be undertaken in writ proceedings, and certainly not in appellate review thereof.

CONCLUSION:

43. In view of the foregoing discussions, we are of the considered opinion that the Impugned Judgment dated 06.01.2006 passed by the learned Single Judge in *W.P.(C) No. 3919/2002* does not suffer from any illegality, perversity, or arbitrariness warranting interference by this Court in the present appeal. The learned Single Judge has, upon a meticulous appraisal of the rival submissions and documentary evidence, rightly concluded that the fixation of the FRP by the FICC was undertaken in accordance with the applicable policy framework and established methodology.

44. The findings returned by the learned Single Judge with respect to the DER, the assessment of capital cost, and the linkage of the Appellants’ unit with other comparable fertilizer units are reasoned, rational, and supported by material on record. The learned Single Judge has also correctly held that issues involving factual and technical determinations by an expert body such as the FICC do not warrant judicial review in the exercise of Writ Jurisdiction under



2025:DHC:10509-DB



Article 226 of the Constitution. **LPA 435/2006** is, therefore, dismissed alongwith pending application, if any.

45. In view of the above, the challenge in **W.P.(C) 8965/2006** to the demand of approximately Rs. 109 Crores towards interest payable on the delayed repayment of the principal amount of the alleged excess subsidy earlier disbursed to the Petitioner, also fails. The said Writ Petition is, accordingly, dismissed alongwith pending application, if any.

46. No order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
NOVEMBER 24, 2025/v/sm/kr

Signature Not Verified

Digitally Signed
By: HARVINDER KAUR BHATIA
Signing Date: 27.11.2025
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LPA 435/2006 & W.P.(C) 8965/2006

Page 25 of 25