In the High Court of Punjab and Haryana at Chandigarh

CWP No. 26692 of 2021 (O&M)
Reserved on: 18.2.2025
Date of Decision: 12.3.2025

Manish Kumar and others .....Petitioners

Versus

State of Haryana and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI

Argued by: Mr. Akshay Jindal, Advocate,
Ms. Bhavya Vats, Advocate and
Mr. Mannat Sibal, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana,
Ms. Svaneel Jaswal, Addl. A.G. Haryana,
Mr. Pardeep Prakash Chahar, Sr. DAG, Haryana.
Mr. Saurabh Mago, DAG, Haryana,
Mr. Gaurav Bansal, DAG, Haryana and
Mr. Karan Jindal, AAG, Haryana
for the respondents-State.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep Kaur, Advocate,
Ms. Saanvi Singla, Advocate and
Mr. Siddharth Arora, Advocate
for respondents No. 2 and 4.

Mr. Puneet Bali, Senior Advocate with
Mr. Gunjan Rishi, Advocate,
Mr. Gagandeep Singh, Advocate and
Ms. Hanima Grewal, Advocate
for respondent No. 5.

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SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioners seek the quashing of the revised/replanned layout plan dated 10.5.2012/25.10.2021 (Annexure P-4) for Sector-21, Panchkula. Furthermore, the petitioners also seek a writ in the nature of prohibition/restraining the respondent

No. 1 from confirming the e-auction qua Nursing Home site-1, Nursing Home site-2 and Nursing Home site-3, in front of House No. 1957-P, Sector-21, Panchkula. In the earlier layout plan, the subject site was initially declared as nursery and primary school sites, but in the revised layout plan, it has been declared as Nursing Home site-1, Nursing Home site-2 and Nursing Home site-3.

Brief facts of the case

2. It is averred in the instant petition, that the petitioners are the allottees/subsequent purchasers of small residential houses measuring 6 marlas and 10 marlas situated in Sector-21, Panchkula. The said houses of the petitioners are adjoining, and, opposite to the released land, where a multi-specialty hospital under the name and style of Alchemist Hospital, Sector-21, Panchkula is being run. The houses of the petitioners are situated on a 9 meter road (C-Road) and owing to a huge rush of patients in the above hospital, there always remain parking problems. It is averred thereins, that the development plan of Sector-21, since the allotment of plots to the petitioners till 25.10.2021, thus was depicting that a nursery school site and a primary school rather would become located adjoining the subject land, whereas, the supra hospital has been located thereons. The petitioners came to know qua an e-auction becoming conducted regarding the primary school site and nursery school site by converting them into three nursing home sites. Subsequently, the petitioner procured the impugned development plan, whereins, it has been mentioned that vide endorsement dated 25.10.2021, the nursery and primary school sites (supra) have been replanned as Nursing Home site-1, Nursing Home site-2 and Nursing Home site-3, and, it has also been proposed to develop a multiple level parking on

the said site. The petitioners also received information from the office of Haryana Shehri Vikas Pradhikaran (for short '*the HSVP*'), that the highest bids of Nursing Home site-1 and Nursing Home site-2, were given by the Alchemist Hospital, whereas, the highest bid for Nursing Home site-3 was given by one Ms. Sunita, however, the instant conversion is required to be declared to be completely flawed.

Submissions on behalf of the learned counsel for the petitioners

3. The learned counsel for the petitioners submits-

(i) That the exercise of revising/amending the initial layout plan rather has been conducted at the behest of respondent No. 5, in order to respectively extend benefit to it/him/her, and, since the e-auction was conducted in less than a month after the revised layout plan became approved by the HSVP. Therefore, not only the said amendment was made in complete violation of the mandate(s) of law as well as to the principles of natural justice, but also the conducting of the e-auction is ridden with the vice of *sub coloris officio*.

(ii) That the respondents concerned, have violated the provisions of Section 79 of the Haryana Shehri Vikas Pradhikaran Act, 1977 (for short '*the HSVP Act*') and of Sections 4 and 5 of the Punjab Scheduled Roads and Controlled Areas Act, 1963 (for short 'the Act of 1963). He further submits, that sub-Section (3) of Section 79 of the HSVP Act, provides that before making any amendments in the plan, the HSVP shall publish a notice calling for objections and suggestions. Moreover when, Sections 17 and 19 of the Panchkula Metropolitan Development Authority Act, provisions whereof become extracted hereinafter, thus deal with the infrastructure development plan, and, also contemplate the publication of a notice calling for objections

and suggestions rather before approvals being made, vis-a-vis the development plan.

> *"17. (1) The Chief Executive Officer shall, within a period of nine months from the commencement of this Act and at such intervals thereafter, as may be prescribed, after such consultations, as may be specified by regulations, prepare an infrastructure development plan for the notified area:*
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> *Provided that such infrastructure development plan shall be in conformity with the final plans published under sub-section (7) of section 5 of the Haryana Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963.*
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> *(2) The infrastructure development plan shall –*
>
> *(a) describe and detail the infrastructure development work and urban amenities, including but not limited to roads, water supply, sewage disposal, storm water drainage, electricity, solid waste management, public transportation, parking and other urban amenities, required for the maintenance of a reasonable standard of living of residents of the notified area or part thereof:*
>
> *Provided that nothing in this clause shall apply to any internal development work under the control and management of the local authority or internal development work undertaken or intended to be undertaken, by any owner who has been granted a licence under sub-section (3) of section 3 of the Haryana Development and Regulation of Urban Areas Act, 1975 (8 of 1975):*
>
> *Provided further that the parameters for measuring the reasonable standard of living of residents shall be such, as may be determined by the Authority;*
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> *(b) specify the right of way requirements for infrastructure development work under, over, along, across or upon any road or public street or any property vested in or under the control or management of the Authority, including but not limited to electricity, telecommunications, piped natural gas, provided by entities under a licence issued by or under any State law:*
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> *Provided that the right of way requirements shall make provision for prevention of frequent damage to road and related infrastructure standing thereon.*
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> *(3) The Chief Executive Officer shall cause the infrastructure development plan to be published on the website of the Authority for the purpose of inviting objections or suggestions thereon.*
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> *(4) Any person, including a member of the Residents Advisory Council nominated under clause (g) of sub-section (2) of section 11, may within a period of thirty days from the date of publication of the plan under sub-section (3) send his objections or suggestions in writing, if any, in respect of such plan to the Chief Executive Officer and he shall submit, within a period of sixty days from the aforesaid date, the infrastructure development plan alongwith his*

recommendations to the Authority.

(5) After considering the objections and suggestions, if any, and the recommendations of the Chief Executive Officer thereon, the Authority shall, subject to such modifications, as it deems fit, prepare final infrastructure development plan and publish the same on the website of the Authority.

(6) The infrastructure development plan may, from time to time, as may be required, be modified after following the process described in sub-sections (3) to (5), in so far as the modification is concerned

18. x x x x

19. (1) Notwithstanding anything contained in any other State law for the time being in force, no board, company, agency or person shall, except in accordance with the infrastructure development plan, undertake any infrastructure development, within the notified area of a nature that has been entrusted to the Authority under this Act or rules or regulations made thereunder.

(2) Any board, company, agency or person desiring to undertake infrastructure development referred to in sub-section (1) shall intimate, in writing to the Chief Executive Officer, its proposal for infrastructure development, in such form and manner, as may be specified by regulations, alongwith a certificate to the effect that the proposal is in accordance with the infrastructure development plan:

Provided that the local authority or any owner who has been granted a licence under sub-section (3) of section 3 of the Haryana Development and Regulation of Urban Areas Act, 1975 (8 of 1975) shall not submit a proposal for internal development work to the Authority: Provided further that the local authority shall inform the Authority about its intent to undertake any infrastructure development work other than an internal development work and such information shall be provided, except when it is of an emergent nature, at least thirty days prior to the commencement of such infrastructure development work.

(3) The Chief Executive Officer immediately on the receipt of the proposal referred to in sub-section (2) but not later than three working days, shall cause to place the proposal alongwith all documents submitted, on the website of the Authority.

(4) Any resident of the notified area may, within a period of twenty-one days from the date on which the proposal was placed on the website of the Authority under sub-section (3), submit his objections or suggestions on the proposal to the Chief Executive Officer.

(5) The Chief Executive Officer shall, within a period of sixty days from the date on which the proposal was placed on the website of the Authority under sub-section (3) and after examination of the objections and suggestions and making such inquiry, as he considers necessary, either give his concurrence to the proposal or submit his recommendations alongwith reasons thereof to the

board, company, agency or person submitting the proposal under sub-section (2).

(6) The concurrence or the recommendations alongwith reasons thereof referred to in sub-section (5) shall be placed on the website of the Authority.

(7) If the Chief Executive Officer, while making his recommendations under sub-section (5) comes to the conclusion that the proposal has a material and pervasive effect and affects public interest, he shall proceed forthwith to submit his recommendations to the Chairperson of the Authority.

(8) The Authority shall, after consideration of the recommendations of the Chief Executive Officer give such directions, subject to the provisions of this Act and rules made thereunder, as it may deem fit and the Chief Executive Officer shall be bound to act in accordance with such directions."

(iii) However, it has been contended that none of the supra provisions became implemented at the instance of the respondent concerned, wherebys there has been a breach to the principles of natural justice, whereupon, the impugned layout plan is required to be quashed and set aside.

(iv) That since at the time of allotment of residential plots to the petitioners, in the development plan of Sector-21, rather the sites in question were shown to be reserved for a nursery and a primary school site, therefore, the HSVP is bound by the principle of promissory estoppel.

(v) That since owing to the existence of supra hospital in proximity to the residential homes of the present petitioners, thus the infrastructure is already burdened, thereupons in case more area is provided for construction of nursing homes, therebys the basic infrastructural facilities would become collapsed.

4. The learned counsel for the petitioner submits, that the entire exercise of amending the layout plan, has been malafidely done. Therefore, it is prayed that the impugned revised layout plan be quashed.

5. In support of his submissions, the learned counsel for the petitioners has placed reliance on a judgment rendered by the Apex Court in case titled as '***M.C.Mehta versus Union of India and others (SC)*** reported in ***JT 2018 (5) SC 383'.*** The relevant paragraph of the said judgment becomes extracted hereinafter.

> *"15. Again unfortunately, instead of taking the people of Delhi into confidence with regard to amendments to the Master Plan, a bogey of public order and rioting has been sought to be communicated to us as if the law and order situation in Delhi was getting out of control. We are at a loss to understand the hyper-reaction and how changes in the Master Plan are sought to be brought about without any meaningful public participation with perhaps an intent to satisfy some lobbies and curtailing a period of 90 days to just 3 days on some unfounded basis. It must be appreciated that the people of Delhi come first."*

6. On the basis of the judgment (supra), it is contended, that only if in terms of Sections 4 and 5 of the Act of 1963, provisions whereof become extracted hereinafter, the respondent concerned, after inviting objections from the concerned, thus had prepared the layout plan, therebys alone, the preparation of the impugned layout plan was permissible, thus on the ground that therebys, there was adherence made to the principles of natural justice. The said adherence emanates on account of the fact that the statutorily ordained objections becoming imperatively invited from the present petitioners, besides prior to the preparation of the layout plan, thus the said objections becoming rejected through thereons a well drawn reasoned order becoming made. Consequently, it is vehemently contended before this Court that the impugned layout plan also breaches the mandate of law, as declared by the Apex Court in the judgment (supra).

"4. Declaration of controlled area.

(1) The Government may by notification declare the whole or any part of any area adjacent to and within a distance of -

(a) eight kilometers on the outer side of the boundary of any town; or

(b) two kilometers on the outer side of the boundary of any industrial or housing estate, public institution or an ancient and historical monument, specified in such notification to be controlled area for the purposes of this Act.

(2) The Government shall also cause the contents of the declaration made under sub-section (1) to be published in at least two newspapers printed in a language other than English.

5. Publication of plans etc. in controlled area.

(1) The Director shall, not later than three months from the declaration under sub-section (1) of Section 4 or within such further period as the Government may allow, prepare plans in the prescribed manner showing the controlled area and signifying therein the nature of restrictions and conditions proposed to be made applicable to the controlled area and submit the plans to the Government.

(2) Without prejudice to the generality of the powers specified in sub-section (1), the plans may provide for any one or more of the following matters, namely:-

(a) the division of any site into plots for the erection or re-erection of any building and the manner in which such plots may be transferred to intending purchasers or lessees;

(b) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets and other public purposes;

(c) the development of any site into a township or colony and the restrictions and conditions subject to which such development may be undertaken or carried out;

(d) the erection or re-erection of buildings on any site and the restrictions and conditions in regard to the open space to be maintained in or around buildings and the height and character of buildings;

(e) the alignment of buildings on any site;

(f) the architectural features of the elevation or frontage of buildings to be built on any site;

(g) the amenities to be provided in relation to any site or buildings on such site whether before or after the erection or re-erection of buildings and the person or authority by whom such amenities are to be provided;

(h) the prohibition or restrictions regarding erection or re-erection of shops, workshops, ware houses or factories or buildings of a specified architectural feature or buildings

designed for particular purposes in any locality;

(i) the maintenance of walls, fences, hedges, or any other structural or architectural construction and the height at which they shall be maintained;

(j) the restriction regarding the use of any site for purposes other than the erection or re-erection of building.

(k) any other matter which is necessary for the proper planning of any controlled area and for preventing building being erected or re-erected haphazardly in such area.

(3) The Government may either approve the plans without modifications or with such modifications as it may consider necessary or reject the plans with directions to the Director to prepare fresh plans according to such directions.

(4) The Government shall cause to be published by notification the plans approved by it under sub-section (3) for the purpose of inviting objections thereon.

(5) Any person may, within thirty days from the date of publication of the notification under sub-section (4), send to the Director his objection and suggestion in writing, if any, in respect of such plans and the Director shall consider the same and forward them with his recommendations to the government within a period of sixty days from the aforesaid date.

(6) The Director shall also give reasonable opportunities to every local authority, within whose local limits any land included in the controlled areas is situated, to make any representation with respects to the plans.

(7) After considering the objections, suggestions and representations, if any, and the recommendations of the Director thereon, the Government shall decide as to the final plans showing the controlled area and signifying therein the nature of restrictions and conditions applicable to the controlled area and publish the same in the Official Gazette and in such other manner as may be prescribed.

(8) Provision may be made by rules made in this behalf with respect to the form and content of the plans and with respect to the procedure to be followed, and any other matter in connection with the preparation, submission and approval of the plans.

(9) Subject to the foregoing provisions of this section, the Government may direct the Director to furnish such information as the Government may require for the purpose of approving the plans submitted to it under this section."

7. The learned counsel for the petitioners has further placed reliance on a judgment rendered by a Division Bench of this Court in case

titled as ***Innovative Techno Park Private Limited versus State of Haryana (P&H) (DB)*** reported in ***2018 (4) RCR (Civil) 743,*** relevant paragraphs whereof become extracted hereinafter, to contend, that unless the procedure envisaged in the Act of 1963 became complied with, especially appertaining to adherence being made to the principles of natural justice, therebys the conversion of the initial layout plan to the one, as made in the impugned layout plan rather was grossly impermissible.

> *"38. Faced with this, the respondents' contended that the restrictions in the development plan and the provisions of law do not apply to the instrumentalities of the State including HUDA, which is wholly owned, controlled and managed by the Government of Haryana. This submission was sought to be supported firstly on the basis of Sections 18 and 24 of the Haryana Development and Regulation of Urban Areas Act, 1975 which read as under:-*
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> ***"Section 18**: [Nothing in this Act shall affect the power of the Government, Improvement Trusts, Housing Board, Haryana, [any local authority or another authority constituted under any law for the time being in force by the State Government for carrying out the development of urban area.] to develop land or impose restrictions upon the use and development of any area under any other law for the time being in force, [but such power except the power exercisable by the Government, shall be exercised on payment of such sum as may be decided by the Government from time to time.]*
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> ***Section 24. Power to make rules:-***
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> *(1) The Government may, by notification in the official gazette, subject to the condition of previous publication, make rules for carrying out the purposes of this Act and may give them prospective or retrospective effect.*
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> *(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-*
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> *(a) fee, form and manner of making an application for obtaining licence under sub-section (1) of section 3 ;*
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> *(b) form of licence and agreement under sub-section (3) of section 3 ;*
>
> *(c) fee for grant or renewal of licence under sub-section (4) of section 3;*
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> *(d) form of registers to be maintained under section 4 ;*
>
> *(e) form of accounts to be maintained under sub-section (2) of section 5 ;*
>
> *(f) manner of getting the accounts audited under sub-section (2) of section 6 ;*
>
> *(g) manner in which preference is to be given to the plot-holders under sub-section (3) of section 8 ;*
>
> *(h) form and manner of making application under sub-section (2) of section 9 ;*
>
> *[(i) any other matter in connection with preparation, submission and*

approval of plans.]

(2A) In particular and without prejudice to the generality of the foregoing power and the matters specifically provided for in this Act, the Government may, by notification in the official Gazette, make rules for efficient administration of the Board. Such Rules may provide for all or any of the following matters, namely:-

(i) Prescribing the procedure to be adopted for project identification, prioritization, public hearing, finalization of scope, funding and structuring of infrastructure projects, conducting feasibility analysis, public bidding of the project, concessionaire selection, negotiation of contract, formation of Special Purpose Vehicles, execution of concession agreement, implementation and completion of project as well as its monitoring maintenance and impact assessment i.e. covering the complete spectrum of project cycle;

(ii) Prescribing the procedure for project implementation including determination of tariff, assignments of assets, assessing feasibility, and viability of finalized infrastructure projects, termination of concession agreement etc. for successful implementation of project and its termination in case of violation of provisions of agreement;

(iii) Prescribing the form and manner in which finance, accounts and audit of the Board of maintained, conducted and submitted along with the form and manner in which the annual report of the Board of prepared and placed and returns are submitted;

(iv) Prescribing the form and manner of furnishing returns, statements and other particulars as may be decided;

(3) Every rule made under this Act shall be laid, as soon as may be, after it is made, before the House of the State Legislature, white it is in session."]

39. The submission is not well founded. The provisions of law, that we have referred to, apply equally to HUDA as they apply to others. The opening words of section 18 "Nothing in this Act shall affect the power of the Government etc....." (emphasis supplied) themselves indicate that it is the provision of the 1975 Act that do not affect the rights of the Government etc. stipulated in Section 18. The section does not make inapplicable to the Government etc. the provisions of other Acts with regard to the provisions stipulated in section 18. The instrumentalities of the State including the HUDA are not excluded from the purview of these provisions. Section 18 only permits the entities mentioned therein to develop the land or to impose restrictions upon use and development of any area under any other law. Section 18 does not curb the power of the authorities mentioned therein to impose the restrictions upon the use and development of any area. Section 18 also provides that nothing contained in the 1975 Act affects the power of the authorities mentioned therein to develop the land. The provision for the preparation of the development plan and the user of the land are

stipulated under the 1963 Act and not under the 1975 Act. It follows, therefore, that Section 18 does not entitle the authorities to develop the land contrary to the users stipulated in the development plan."

8. Furthermore, the learned counsel for the petitioners has placed reliance on a judgment rendered by this Court in case titled as ***Haryana Urban Development Authority now (HSVP) versus Satish Kumar Dubey (P&H),*** reported in ***2011(3) PLR 786***, whereins, the relevant therein conversion became dis-countenanced, thus on grounds paramateria to the grounds raised in the instant petition. Therefore, it is vehemently argued that the impugned layout plan is required to be quashed and set aside. The relevant paragraphs of the said judgment are extracted hereinafter.

"16. I have heard learned counsel for the parties, appraised the paper book, case laws cited at bar and the documents handed over during the course of hearing and of the view that the revision petition is liable to be dismissed as the order under challenge does not call for interference, for, the lower Appellate Court found the ingredients of Order 39, Rule 1 and 2 CPC i.e. prima facie case, balance of convenience and irreparable loss in favour of respondent No.1- plaintiff and the reason is not one but many.

(i) The lower Appellate Court has, in my view, not committed any illegality in interpreting the provisions of Section 79 of the 1977 Act, which has already been referred to in paragraph 13 of the impugned order. Section 79 of 1977 Act provides that the Local Development Authority may make any amendment on the master plan or the sectoral/zonal/development plan, which it thinks fit and does not effect important alterations in the character of the plan and do not relate to the extent of land uses or standards of population density. But before making any amendment in the plan, the Local Development Authority or as the case may be, the State Government shall publish a notice in at least one newspaper having circulation in the LDA by inviting objections. The full particulars of such amendments shall be reported to the State Government within 30 days of the date on which such amendments came into operation. However, in the instant case, no such procedure has been followed by the Chief Administrator, HUDA as vide letter dated 12.02.2018, had passed the following order:-

"The proposal for carving out alternate petrol pump site in place of taxi stand at Sector 42, Gurugram, received vide letter under reference, has been approved by Chief Administrator, HUDA. A part showing the duly approved site is enclosed herewith for

information and further necessary action. Zoning plan of the approved site may also be got finalized and send to this office for approval on priority.

It is also requested to provide some other site for Taxi Stand in near vicinity."

(ii) During the course of hearing, provisions of Rule 2 (d) pertaining to definitions of Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Rules, 1963 was referred to demonstrate that 'development plan' would mean the final plan notified in the official Gazette under subsection 7 of Section 5 of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 and the 'Sector' would be any part of the controlled area indicated as such in the Development Plan and as well as the provisions of Section 4 of the 1963 Act, which deals with the power of the Government to publish by notification the plans approved by it under sub-section (4) for the purpose of inviting objections. For the sake of brevity, sub-section 4 & 5 of Section 5 of the 1963 Act are reproduced as under:-

"(4) The Government shall cause to be published by notification the plans approved by it under sub-section (3) for the purpose of inviting objections thereon.

(5) Any person may, within thirty days from the date of publication of the notification under sub-section (4), send to the Director his objection and suggestion in writing, if any, in respect of such plans and the Director shall consider the same and forward them with his recommendations to the government within a period of sixty days from the aforesaid date."

(iii) A perusal of the aforementioned provisions reveals that same procedure has been prescribed in the Gurugram Metropolitan Development Authority Act, 2017. It is yet to be decided whether the Chief Administrator had the power vis-a-vis the change of use of the land after promulgation of GMDA Act, 2017, for, the said Act has already been implemented as per the tender notice invited by Advisor (Engineering) for and on behalf of the Chief Executive Officer.

(iv) Both the counsel had argued the matter to such an extent as if it is a writ petition or regular second appeal but in my opinion, it is yet to be proved whether the plaintiff would be entitled for permanent injunction on the grounds stated in the plaint, for, provisions of the GMDA Act of 2017 and photographs shown at bar have not been controverted by learned counsel for the petitioners, thus, it would be domain of the trial Court subject to proof in accordance with law to adjudicate upon the controversy.

(v) In view of the judgment referred by Mr. Aggarwal in ***Rajat Kuchhal and others v. State of Haryana and others*** *(supra), prima facie, the authority of the Chief Administrator, HUDA was*

held to be wanting, for, it was held that change in the development plan cannot be done by one stroke of pen by the Chief Administrator, HUDA. It is also yet to be proved whether the Chief Administrator, HUDA would have the power or the Commissioner, Municipal Corporation in view of the decision rendered in Rajat Kuchhal's case (supra) or there has to be amendment in the Rule as per the procedure prescribed under the prevailing Act.

(vi) During the course of hearing, it has not also been explained by the counsel for the petitioners that as to why the area already earmarked for petrol pump on the 30 mtr wide road as indicated in the approved site plan cannot be used for shifting the existing petroleum pump at IFFCO chowk and what was the reason for converting the taxi stand into a petrol pump, particularly, when there is already a high pressure petroleum product pipeline maintained by the authority referred to above, therefore, the provisions of Order 39, Rule 1 and 2 CPC,in my view, are in favour of the respondent No.1-plaintiff for adjudication of the revision petition. Since the pleadings are already completed, appropriate direction can be issued to the trial Court to expedite the disposal of the trial particularly when the order of the lower Appellate Court granting injunction by restraining the defendants from converting the site earmarked for taxi stand into petrol pump is in vogue.

17. As an upshot of my finding, the impugned order is upheld and the revision petition is disposed of with the following directions:-

(a) In case, the issues are not framed, the trial Court shall undertake an exercise of admission and denial of the documents, which will curtail the unnecessary evidence, for, the parties would be leading evidence on the issues which are at variance.

(b) Since the entire controversy is rested on the basis of the documentary evidence and the provisions of the Acts and Regulations referred to herein above, the oral evidence would not be that essential. However, without taking away right of either of the parties to examine any oral evidence, I deem it appropriate to direct the trial Court to give 4-4 effective opportunities to the respondent No.1- plaintiff and the petitioners-defendants in accordance with law. They will be at liberty to examine witnesses through the assistance of the Court by moving application on deposit of process fee and diet money. The four opportunities may span over a period of four months from the date of receipt of certified copy of this order and the trial Court shall expedite the decision the suit within a period of four months thereafter.

(c) I would be restraining myself from commenting upon the application of the Policies dated 29.07.2013 and 12.02.2013 with regard to minimum area prescribed for setting up a

petrol pump on various areas/roads as it would also be proof of evidence and domain of the trial Court.
(d) anything observed, herein, shall not be construed an expression of opinion on merits of the suit pending adjudication."

9. Therefore, reiteratedly it is contended that the impugned layout plan smacks of gross arbitrariness, besides of misuse of the executive powers, as the said layout plan, but is in derogation of the Act of 1963, rather on the premise, that no adherence becomes made by the respondent concerned, vis-a-vis the provisions embodied in sub-Section (3) of Section 79 of the HSVP Act. Moreover, the impugned layout plan reiteratedly also is contended to be breaching the mandate of Sections 17 and 19 of the Panchkula Metropolitan Development Authority Act, whereins, contemplations are made, that prior to the making of the infrastructure development plan, thus a notice is required to be published for therebys objections and suggestions becoming invited from the aggrieved, especially before the finalization of the proposed amendment.

Submissions on behalf of the learned counsels for the respondents

10. The learned counsels for the respondents submit-

(i) That the provisions of Section 5 of the Act of 1963 are not applicable in the instant case, and, the reliance made thereons by the petitioners is inapt. He further submits, that the Act of 1963, the Haryana Urban Development and Regulation of Urban Areas Act, 1975 (for short 'the Act of 1975), and the HSVP Act, thus became enacted for achieving the ultimate objective of development of infrastructure, but in a regulated manner.

(ii) That the Chief Administrator, HSVP is the competent authority to approve zoning plan/layout plan of HSVP lands/sectors, and, is

also competent to amend/modify any layout plan, at any point of time, if it is felt that the earlier approved plan rather is not fulfilling its purpose and also is not found to be feasible, thus owing to any circumstances or current requirement of the development of the town/city.

(iii) That the HSVP is an autonomous body under the Act, and, the planning of the land vested under Section 14 of the HSVP Act, rather is within the exclusive domain of the HSVP.

(iv) That the reliance made on the provisions of Section 79 of the Act of 1979 is also inconsequential, as the said provisions are not applicable in the instant case.

(v) That neither any material change nor any amendment to the layout plan has taken place, and, that the primary school sites and nursery school sites, as became declared in the initial layout plan, but have been merely replanned in order to increase the utility of the subject sites, through creating thereovers three nursing home sites.

(vi) That the petitioners have failed to make a plea as to how prejudice is caused to them owing to the action of the competent authority by amending the layout plan (supra). Therefore, in the absence of any prejudice being caused to the petitioners, therebys they cannot lay a challenge to the approved layout plan.

(vii) That the petitioners have made the allegations without any supportive evidence, and, that the e-auction was conducted by HSVP in a transparent manner according to the provisions of law. Moreover, respondent No. 5 had already deposited Rs. 50,81,120/- in the year 2021, and, till date no LOI has been issued to it.

11. In support of his submissions, the learned senior counsel for respondent No. 5 has placed reliance on the judgments rendered by the Apex Court in case titled as ***(i) State of U.P. versus Sudhir Kumar Singh*** reported in ***(2021) 19 SCC 706, (ii) Dharampal Satyapal Ltd. versus CCE,*** reported in ***(2015) 8 SCC 519 and (iii) Patel Engg. Ltd. versus Union of India,*** reported in ***(2012) 11 SCC 257***. The relevant paragraphs of the judgments (supra) become extracted hereinafter.

> ***(i) State of U.P. versus Sudhir Kumar Singh*** reported in ***(2021) 19 SCC 706***
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> *"36. What is important to note is that it is the Court or Tribunal which must determine whether or not prejudice has been caused, and not the authority on an ex parte appraisal of the facts. This has been well-explained in a later judgment, namely Dharampal Satyapal Ltd. v. Dy. Comm. Of Central Excise, Gauhati and Ors. (2015) 8 SCC 519, in which, after setting out a number of judgments, this Court concluded:*
>
> > *"38. But that is not the end of the matter. While the law on the principle of audi alteram partem has progressed in the manner mentioned above, at the same time, the courts have also repeatedly remarked that the principles of natural justice are very flexible principles. They cannot be applied in any straitjacket formula. It all depends upon the kind of functions performed and to the extent to which a person is likely to be affected. For this reason, certain exceptions to the aforesaid principles have been invoked under certain circumstances. For example, the courts have held that it would be sufficient to allow a person to make a representation and oral hearing may not be necessary in all cases, though in some matters, depending upon the nature of the case, not only full- fledged oral hearing but even cross-examination of witnesses is treated as a necessary concomitant of the principles of natural justice. Likewise, in service matters relating to major punishment by way of disciplinary action, the requirement is very strict and full-fledged opportunity is envisaged under the statutory rules as well. On the other hand, in those cases where there is an admission of charge, even when no such formal inquiry is held, the punishment based on such admission is upheld. It is for this reason, in certain circumstances, even post-decisional hearing is held to be permissible. Further, the courts have held that under certain circumstances principles*

of natural justice may even be excluded by reason of diverse factors like time, place, the apprehended danger and so on.

39. We are not concerned with these aspects in the present case as the issue relates to giving of notice before taking action. While emphasising that the principles of natural justice cannot be applied in straitjacket formula, the aforesaid instances are given. We have highlighted the jurisprudential basis of adhering to the principles of natural justice which are grounded on the doctrine of procedural fairness, accuracy of outcome leading to general social goals, etc. Nevertheless, there may be situations wherein for some reason-perhaps because the evidence against the individual is thought to be utterly compelling-it is felt that a fair hearing "would make no difference"-meaning that a hearing would not change the ultimate conclusion reached by the decision maker- then no legal duty to supply a hearing arises. Such an approach was endorsed by Lord Wilberforce in Malloch v. Aberdeen Corpn. [(1971) 1 WLR 1578], who said that: (WLR p. 1595)

"... A breach of procedure ... cannot give [rise to] a remedy in the courts, unless behind it there is something of substance which has been lost by the failure. The court does not act in vain."

Relying on these comments, Brandon L.J. opined in Cinnamond v. British Airports Authority [(1980) 1 WLR 582] that: (WLR p. 593)

"... no one can complain of not being given an opportunity to make representations if such an opportunity would have availed him nothing."

In such situations, fair procedures appear to serve no purpose since the "right" result can be secured without according such treatment to the individual.

40. In this behalf, we need to notice one other exception which has been carved out to the aforesaid principle by the courts. Even if it is found by the court that there is a violation of principles of natural justice, the courts have held that it may not be necessary to strike down the action and refer the matter back to the authorities to take fresh decision after complying with the procedural requirement in those cases where non-grant of hearing has not caused any prejudice to the person against whom the action is taken. Therefore, every violation of a facet of natural justice may not lead to the conclusion that the order passed is always null and void. The validity of the order has to be decided on the touchstone of "prejudice". The ultimate test is always the same viz. the test of prejudice or the test of fair hearing.

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42. So far so good. However, an important question posed by Mr Sorabjee is as to whether it is open to the authority, which has to take a decision, to dispense with the requirement of the principles of natural justice on the ground that affording such an opportunity will not make any difference? To put it otherwise, can the administrative authority dispense with the requirement of issuing notice by itself deciding that no prejudice will be caused to the person against whom the action is contemplated? Answer has to be in the negative. It is not permissible for the authority to jump over the compliance of the principles of natural justice on the ground that even if hearing had been provided it would have served no useful purpose. The opportunity of hearing will serve the purpose or not has to be considered at a later stage and such things cannot be presumed by the authority.This was so held by the English Court way back in the year 1943 in General Medical Council v. Spackman [1943 AC 627]. This Court also spoke in the same language in Board of High School and Intermediate Education v. Chitra Srivastava [(1970) 1 SCC 121], as is apparent from the following words: (SCC p. 123, para 7)

"7. The learned counsel for the appellant, Mr C.B. Agarwala, contends that the facts are not in dispute and it is further clear that no useful purpose would have been served if the Board had served a show-cause notice on the petitioner. He says that in view of these circumstances it was not necessary for the Board to have issued a show-cause notice. We are unable to accept this contention. Whether a duty arises in a particular case to issue a show-cause notice before inflicting a penalty does not depend on the authority's satisfaction that the person to be penalised has no defence but on the nature of the order proposed to be passed."

43. In view of the aforesaid enunciation of law, Mr Sorabjee may also be right in his submission that it was not open for the authority to dispense with the requirement of principles of natural justice on the presumption that no prejudice is going to be caused to the appellant since the judgment in R.C. Tobacco [(2005) 7 SCC 725] had closed all the windows for the appellant.

44. At the same time, it cannot be denied that as far as courts are concerned, they are empowered to consider as to whether any purpose would be served in remanding the case keeping in mind whether any prejudice is caused to the person against whom the action is taken. This was so clarified in ECIL itself in the following words: (SCC p. 758, para 31)

> *"31. Hence, in all cases where the enquiry officer's report is not furnished to the delinquent employee in the disciplinary proceedings, the courts and tribunals should cause the copy of the report to be furnished to the aggrieved employee if he has not already secured it before coming to the court/tribunal and given the employee an opportunity to show how his or her case was prejudiced because of the non-supply of the report. If after hearing the parties, the court/tribunal comes to the conclusion that the non-supply of the report would have made no difference to the ultimate findings and the punishment given, the court/tribunal should not interfere with the order of punishment. The court/tribunal should not mechanically set aside the order of punishment on the ground that the report was not furnished as is regrettably being done at present. The courts should avoid resorting to short cuts. Since it is the courts/tribunals which will apply their judicial mind to the question and give their reasons for setting aside or not setting aside the order of punishment, (and not any internal appellate or revisional authority), there would be neither a breach of the principles of natural justice nor a denial of the reasonable opportunity. It is only if the court/tribunal finds that the furnishing of the report would have made a difference to the result in the case that it should set aside the order of punishment."*

> *45. Keeping in view the aforesaid principles in mind, even when we find that there is an infraction of principles of natural justice, we have to address a further question as to whether any purpose would be served in remitting the case to the authority to make fresh demand of amount recoverable, only after issuing notice to show cause to the appellant. In the facts of the present case, we find that such an exercise would be totally futile having regard to the law laid down by this Court in R.C. Tobacco [(2005) 7 SCC 725] ."*

37. In State Bank of Patiala and Ors. v. S.K. Sharma (1996) 3 SCC 364, a Division Bench of this Court distinguished between "adequate opportunity" and "no opportunity at all", and held that the "prejudice" exception operates more especially in the latter case. This judgment also speaks of procedural and substantive provisions of law which embody the principles of natural justice which, when infracted, must lead to prejudice being caused to the litigant in order to afford him relief, as follows:

> *"32. Now, coming back to the illustration given by us in the preceding para, would setting aside the punishment and the entire enquiry on the ground of aforesaid violation of sub-clause (iii) be in the interests of justice or would it be its negation? In our respectful opinion, it would be the latter. Justice means justice between both the parties. The interests of justice equally demand that the guilty should be punished and that technicalities and irregularities which do not occasion failure of justice are not allowed to defeat the ends of justice. Principles of natural justice are but the means to achieve the ends of justice. They cannot be perverted to*

achieve the very opposite end. That would be a counterproductive exercise.

33. We may summarise the principles emerging from the above discussion. (These are by no means intended to be exhaustive and are evolved keeping in view the context of disciplinary enquiries and orders of punishment imposed by an employer upon the employee):

(1) An order passed imposing a punishment on an employee consequent upon a disciplinary/departmental enquiry in violation of the rules/regulations/statutory provisions governing such enquiries should not be set aside automatically. The Court or the Tribunal should enquire whether (a) the provision violated is of a substantive nature or (b) whether it is procedural in character.

(2) A substantive provision has normally to be complied with as explained hereinbefore and the theory of substantial compliance or the test of prejudice would not be applicable in such a case.

(3) In the case of violation of a procedural provision, the position is this: procedural provisions are generally meant for affording a reasonable and adequate opportunity to the delinquent officer/employee. They are, generally speaking, conceived in his interest. Violation of any and every procedural provision cannot be said to automatically vitiate the enquiry held or order passed. Except cases falling under - "no notice", "no opportunity" and "no hearing" categories, the complaint of violation of procedural provision should be examined from the point of view of prejudice, viz., whether such violation has prejudiced the delinquent officer/employee in defending himself properly and effectively. If it is found that he has been so prejudiced, appropriate orders have to be made to repair and remedy the prejudice including setting aside the enquiry and/or the order of punishment. If no prejudice is established to have resulted therefrom, it is obvious, no interference is called for. In this connection, it may be remembered that there may be certain procedural provisions which are of a fundamental character, whose violation is by itself proof of prejudice. The Court may not insist on proof of prejudice in such cases. As explained in the body of the judgment, take a case where there is a provision expressly providing that after the evidence of the employer/government is over, the employee shall be given an opportunity to lead defence in his evidence, and in a given case, the enquiry officer does not give that opportunity in spite of the delinquent officer/employee asking for it. The prejudice is self-evident. No proof of prejudice as such need be called for in such a case. To repeat, the test is one of

prejudice, i.e., whether the person has received a fair hearing considering all things. Now, this very aspect can also be looked at from the point of view of directory and mandatory provisions, if one is so inclined. The principle stated under (4) hereinbelow is only another way of looking at the same aspect as is dealt with herein and not a different or distinct principle.

(4)(a) In the case of a procedural provision which is not of a mandatory character, the complaint of violation has to be examined from the standpoint of substantial compliance. Be that as it may, the order passed in violation of such a provision can be set aside only where such violation has occasioned prejudice to the delinquent employee.

(b) In the case of violation of a procedural provision, which is of a mandatory character, it has to be ascertained whether the provision is conceived in the interest of the person proceeded against or in public interest. If it is found to be the former, then it must be seen whether the delinquent officer has waived the said requirement, either expressly or by his conduct. If he is found to have waived it, then the order of punishment cannot be set aside on the ground of the said violation. If, on the other hand, it is found that the delinquent officer/employee has not waived it or that the provision could not be waived by him, then the Court or Tribunal should make appropriate directions (include the setting aside of the order of punishment), keeping in mind the approach adopted by the Constitution Bench in B. Karunakar [(1993) 4 SCC 727]. The ultimate test is always the same, viz., test of prejudice or the test of fair hearing, as it may be called.

(5) Where the enquiry is not governed by any rules/regulations/statutory provisions and the only obligation is to observe the principles of natural justice - or, for that matter, wherever such principles are held to be implied by the very nature and impact of the order/action - the Court or the Tribunal should make a distinction between a total violation of natural justice (rule of audi alteram partem) and violation of a facet of the said rule, as explained in the body of the judgment. In other words, a distinction must be made between "no opportunity" and no adequate opportunity, i.e., between "no notice"/"no hearing" and "no fair hearing". (a) In the case of former, the order passed would undoubtedly be invalid (one may call it 'void' or a nullity if one chooses to). In such cases, normally, liberty will be reserved for the Authority to take proceedings afresh according to law, i.e., in accordance with the said rule (audi alteram partem). (b) But in the latter case, the effect of violation (of a facet of the rule of audi alteram partem) has to be examined from the

standpoint of prejudice; in other words, what the Court or Tribunal has to see is whether in the totality of the circumstances, the delinquent officer/employee did or did not have a fair hearing and the orders to be made shall depend upon the answer to the said query. [It is made clear that this principle (No. 5) does not apply in the case of rule against bias, the test in which behalf are laid down elsewhere.]

(6) While applying the rule of audi alteram partem (the primary principle of natural justice) the Court/Tribunal/Authority must always bear in mind the ultimate and overriding objective underlying the said rule, viz., to ensure a fair hearing and to ensure that there is no failure of justice. It is this objective which should guide them in applying the rule to varying situations that arise before them.

(7) There may be situations where the interests of State or public interest may call for a curtailing of the rule of audi alteram partem. In such situations, the Court may have to balance public/State interest with the requirement of natural justice and arrive at an appropriate decision."

35. In M.C. Mehta v. Union of India and Ors. (1999) 6 SCC 237, the expression "admitted and indisputable facts" laid down in Jagmohan (supra), as also the interesting divergence of legal opinion on whether it is necessary to show "slight proof" or "real likelihood" of prejudice, or the fact that it is an "open and shut case", were all discussed in great detail as follows:

"16. Courts are not infrequently faced with a dilemma between breach of the rules of natural justice and the Court's discretion to refuse relief even though the rules of natural justice have been breached, on the ground that no real prejudice is caused to the affected party.

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22. Before we go into the final aspects of this contention, we would like to state that cases relating to breach of natural justice do also occur where all facts are not admitted or are not all beyond dispute. In the context of those cases there is a considerable case-law and literature as to whether relief can be refused even if the court thinks that the case of the applicant is not one of "real substance" or that there is no substantial possibility of his success or that the result will not be different, even if natural justice is followed. See Malloch v. Aberdeen Corpn. [(1971) 1 WLR 1578] (per Lord Reid and Lord Wilberforce), Glynn v. Keele University [(1971) 1 WLR 487], Cinnamond v. British Airports Authority [(1980) 1 WLR 582] and other cases where such a view has been held. The latest addition to this view is R. v. Ealing Magistrates'

court, ex p Fannaran [(1996) 8 Admn LR 351, 358] (Admn LR at p. 358) (see de Smith, Suppl. p. 89) (1998) where Straughton, L.J. held that there must be "demonstrable beyond doubt" that the result would have been different. Lord Woolf in Lloyd v. McMahon [(1987) 2 WLR 821, 862] (WLR at p. 862) has also not disfavoured refusal of discretion in certain cases of breach of natural justice. The New Zealand Court in McCarthy v. Grant [1959 NZLR 1014] however goes halfway when it says that (as in the case of bias), it is sufficient for the applicant to show that there is "real likelihood - not certainty - of prejudice". On the other hand, Garner Administrative Law (8th Edn., 1996, pp. 271-72) says that slight proof that the result would have been different is sufficient. On the other side of the argument, we have apart from Ridge v. Baldwin [1964 AC 40], Megarry, J. in John v. Rees [(1969) 2 WLR 1294] stating that there are always "open and shut cases" and no absolute rule of proof of prejudice can be laid down. Merits are not for the court but for the authority to consider. Ackner, J. has said that the "useless formality theory" is a dangerous one and, however inconvenient, natural justice must be followed. His Lordship observed that "convenience and justice are often not on speaking terms". More recently Lord Bingham has deprecated the "useless formality" theory in R. v. Chief Constable of the Thames Valley Police Forces, ex p Cotton [1990 I RLR 344] by giving six reasons. (See also his article "Should Public Law Remedies be Discretionary?" 1991 PL, p. 64.) A detailed and emphatic criticism of the "useless formality theory" has been made much earlier in "Natural Justice, Substance or Shadow" by Prof. D.H. Clark of Canada (see 1975 PL, pp. 27-63) contending that Malloch [(1971) 1 WLR 1578] and Glynn [(1971) 1 WLR 487] were wrongly decided. Foulkes (Administrative Law, 8th Edn., 1996, p. 323), Craig (Administrative Law, 3rd Edn., p. 596) and others say that the court cannot prejudge what is to be decided by the decision-making authority de Smith (5th Edn., 1994, paras 10.031 to 10.036) says courts have not yet committed themselves to any one view though discretion is always with the court. Wade (Administrative Law, 5th Edn., 1994, pp. 526-30) says that while futile writs may not be issued, a distinction has to be made according to the nature of the decision. Thus, in relation to cases other than those relating to admitted or indisputable facts, there is a considerable divergence of opinion whether the applicant can be compelled to prove that the outcome will be in his favour or he has to prove a case of substance or if he can prove a "real likelihood" of success or if he is entitled to relief even if there is some remote chance of success. We

may, however, point out that even in cases where the facts are not all admitted or beyond dispute, there is a considerable unanimity that the courts can, in exercise of their "discretion", refuse certiorari, prohibition, mandamus or injunction even though natural justice is not followed. We may also state that there is yet another line of cases as in State Bank of Patiala v. S.K. Sharma [(1996) 3 SCC 364], Rajendra Singh v. State of M.P. [(1996) 5 SCC 460] that even in relation to statutory provisions requiring notice, a distinction is to be made between cases where the provision is intended for individual benefit and where a provision is intended to protect public interest. In the former case, it can be waived while in the case of the latter, it cannot be waived.

23. We do not propose to express any opinion on the correctness or otherwise of the "useless formality" theory and leave the matter for decision in an appropriate case, inasmuch as, in the case before us, "admitted and indisputable" facts show that grant of a writ will be in vain as pointed out by Chinnappa Reddy, J."

(ii) Dharampal Satyapal Ltd. versus CCE, (2015) 8 SCC 519 and

"38. But that is not the end of the matter. While the law on the principle of audi alteram partem has progressed in the manner mentioned above, at the same time, the Courts have also repeatedly remarked that the principles of natural justice are very flexible principles. They cannot be applied in any straight-jacket formula. It all depends upon the kind of functions performed and to the extent to which a person is likely to be affected. For this reason, certain exceptions to the aforesaid principles have been invoked under certain circumstances. For example, the Courts have held that it would be sufficient to allow a person to make a representation and oral hearing may not be necessary in all cases, though in some matters, depending upon the nature of the case, not only full-fledged oral hearing but even cross-examination of witnesses is treated as necessary concomitant of the principles of natural justice. Likewise, in service matters relating to major punishment by way of disciplinary action, the requirement is very strict and full-fledged opportunity is envisaged under the statutory rules as well. On the other hand, in those cases where there is an admission of charge, even when no such formal inquiry is held, the punishment based on such admission is upheld. It is for this reason, in certain circumstances, even post-decisional hearing is held to be permissible. Further, the Courts have held that under certain circumstances principles of natural justice may even be excluded by reason of diverse factors like

time, place, the apprehended danger and so on.

39. We are not concerned with these aspects in the present case as the issue relates to giving of notice before taking action. While emphasising that the principles of natural justice cannot be applied in straight-jacket formula, the aforesaid instances are given. We have highlighted the jurisprudential basis of adhering to the principles of natural justice which are grounded on the doctrine of procedural fairness, accuracy of outcome leading to general social goals, etc. Nevertheless, there may be situations wherein for some reason - perhaps because the evidence against the individual is thought to be utterly compelling - it is felt that a fair hearing 'would make no difference' - meaning that a hearing would not change the ultimate conclusion reached by the decision-maker - then no legal duty to supply a hearing arises. Such an approach was endorsed by Lord Wilberforce in Malloch v. Aberdeen Corporation, (1971) 1 WLR 1578 at 1595, who said that a 'breach of procedure...cannot give (rise to) a remedy in the courts, unless behind it there is something of substance which has been lost by the failure. The court dos not act in vain'. Relying on these comments, Brandon LJ opined in Cinnamond v. British Airports Authority, (1980) 1 WLR 582 at 593 that 'no one can complain of not being given an opportunity to make representations if such an opportunity would have availed him nothing'. In such situations, fair procedures appear to serve no purpose since 'right' result can be secured without according such treatment to the individual."

(iii) Patel Engg. Ltd. versus Union of India, reported in ***(2012) 11 SCC 257***

"*23. From the impugned order it appears that the 2nd respondent came to the conclusion that; (1) the petitioner is not reliable and trustworthy in the context of a commercial transaction; (2) by virtue of the dereliction of the petitioner, the 2nd respondent suffered a huge financial loss; and (3) the dereliction on the part of the petitioner warrants exemplary action to "curb any practice of 'pooling' and 'mala fide' in future".*

24. We do not find any illegality or irrationality in the conclusion reached by the 2nd respondent that the petitioner is not (commercially) reliable and trustworthy in the light of its conduct in the context of the transaction in question. We cannot find fault with the 2nd respondent's conclusion because the petitioner chose to go back on its offer of paying a premium of L 190.53 crores per annum, after realising that the next bidder quoted a much lower amount. Whether the decision of the petitioner is bona fide or mala fide, requires a further probe into the matter, but, the explanation offered by the petitioner does not appear to be a rational explanation. The 2nd respondent in the impugned order, while rejecting

the explanation offered by the petitioner, recorded as follows:

"Further the fact remains that clarification/amendments communicated by NHAI were 'minor' and cannot be attributed as a cause for occurrence of an 'error' of 'major' nature and magnitude. With project facilities clearly spelt out in the RFP document, the project cost gets frozen well in advance and similarly traffic assessment & projections, which largely impact the financial assessment, are also not expected to be left for last few days of bid submission. Therefore stating that an 'error' of this nature and magnitude occurred is neither correct nor justified..... "

25. We cannot say the reasoning adopted by the 2nd respondent either irrational or perverse. The dereliction, such as the one indulged in by the petitioner, if not handled firmly, is likely to result in recurrence of such activity not only on the part of the petitioner, but others also, who deal with public bodies, such as the 2nd respondent giving scope for unwholesome practices. No doubt, the fact that the petitioner is blacklisted (for some period) by the 2nd respondent is likely to have some adverse effect on its business prospects, but, as pointed out by this Court in Jagdish Mandal v. State of Orissa and others, (2007) 14 SCC 517:

"Power of judicial review will not be invoked to protect private interest at the cost of public interest, or to decide contractual disputes."

The prejudice to the commercial interests of the petitioner, as pointed out by the High Court, is brought about by his own making. Therefore, it cannot be said that the impugned decision of R-2 lacks proportionality.

26. Coming to the submission that R-2 ought to have given an oral hearing before the impugned order was taken, we agree with the conclusion of the High Court that there is no inviolable rule that a personal hearing of the affected party must precede every decision of the State. This Court in Union of Indian and another v. Jesus Sales Corporation, (1996) 4 SCC 69, held so even in the context of a quasi-judicial decision. We cannot, therefore, take a different opinion in the context of a commercial decision of State. The petitioner was given a reasonable opportunity to explain its case before the impugned decision was taken.

27. We do not see any reason to interfere with the Judgment under Appeal. The S.L.P. is, therefore, dismissed."

Inferences of this Court

12. In the wake of the above contentions of the learned counsels for the parties, it is but required to be determined whether the supra extracted statutory provisions, rather are or are not applicable to the facts at hand.

13. The principles, which can be succinctized, from the expositions of law made in the judgments (supra), are *inter alia* (i) that the requirements of adherence being made to natural justice, thus are dependent upon the facts and circumstances of each case. In other words, there cannot be any rigidly cast straight-jacket formula vis-a-vis the necessity of adherence being made to the principles of natural justice, especially when for want of adherence being made to the principles of natural justice, thus the executive decisions are impugned before the High Court. (ii) Ex facie, the jurisprudential basis for the adherence being made to the principles of natural justice, do become grounded, on the doctrine of procedural fairness, accuracy of outcome leading to general social goals, etc. (iii) Moreover, such adherence is required to be more rigorously insisted, upon, in case the apposite decision making process becomes embarked into by the Courts of law or by the authority(ies), who exercises quasi judicial functions.

14. The supra necessity becoming aroused in those lis', whereins, an acerbic contest emerges on the contentious assertions of the litiganting parties, wherebys not only the procedural proprieties, rather for therebys ensuring adherence being made to the principles of natural justice, but require a rigorous adherence thereto, but also, the consequent thereto assignings of adequate opportunities to the contesting litigants, thus to adduce evidence on the relevant contentious issues, does concomitantly become a dire necessity.

15. Resultantly in the supra genre of lis' the wants of prejudice accruing to the litigants affected by the decision but would be of no relevance.

16. However, yet the rule or test of prejudice becoming proven to

be encumbered, by apposite executive decision(s), though becomes also exposited in the verdicts (supra), to somehow being construable rather to be an exception, to the necessity of strictest adherence being made to the principles of natural justice.

17. Nonetheless, qua the said factual scenario, there yet cannot be any rigidly formulated straight-jacket formula. The reason for stating so becomes grooved in the factum, that unless the statutory provisions omit to entail a necessity upon the executive to adhere to the principles of natural justice, therebys if the executive decision is yet made but without adherence being made to the principles of natural justice, thereupons, the rule of prejudice becoming encumbered upon the aggrieved, who however is also not a party to the lis, nor is a party to the executive decision making process, thus emerges to the forefront. Resultantly therebys, the aggrieved has to bring-forth thus telling evidence, that the outcome of the lis has severely prejudiced his rights over such disputed lands, over which he otherwise is not directly invested with any right, title and interest, but only has some incorporeal rights thereovers.

18. Nonetheless, insofar as the instant factual scenario is concerned, the impugned decision if imperatively required, as argued by the learned counsel for the petitioners, that prior thereto objections and suggestions, thus purportedly in terms of the supra statutory provisions, thus were statutorily required to be elicited, from the present petitioners, and, yet theirs not being either elicited, nor any speaking decision becoming made thereons, therebys alone this Cout would proceed to accept the submissions addressed before this Court by the learned counsel for the petitioners. In the said regard, it is also necessary to incisively dwell upon the import of the provisions

embodied in Sections 4 and 5 of the Act of 1963. However, before proceeding to do so, it is necessary to bear in mind the objects and reasons for the said enactment becoming made. The relevant objects and reasons for the making of the said enactment was apparently to prevent a haphazard and sub-standard development on the scheduled road, and, in the controlled areas in the State of Haryana. Now for determining whether the supra stated objects and reasons behind the passing of the supra legislation, thus become proven to be breached, it was but necessary for the learned counsel for the petitioners to initially make out a case, that a declaration in terms of Section 4 of the Act of 1963 became passed, wherebys the subject sites became declared to be a controlled area, whereafters alone in terms of Section 5 of the Act of 1963, the government became bestowed with a discretion to prepare plans in the prescribed manner, wherebys became regulated the infrastructure laying mechanism(s) on the sites concerned. Therefore, the learned counsel for the petitioners became enjoined to place on record, the notification issued under Section 4 of the Act of 1963, wherebys the subject sites became declared to be a controlled area. However, the said notification remains omitted to be placed on record. The effect of non-placing on record of the said notification leads to an inference, that the provisions of the Act of 1963, rather were not applicable to the subject sites, nor therebys any statutory necessity became cast upon the respondent concerned, to before finalizing the impugned layout plan, thus invite scribed objections and suggestions from the aggrieved, nor for the supra omission there was any violation to the principles of natural justice.

19. If so, with the statute omitting to make any explicit speaking qua in the said manner adherence being made to the principles of natural

justice, therebys the apposite exception to adherence being made to the principles of natural justice, became aroused. The said exception thus becomes grooved in the factum, that therebys there was a necessity for the present petitioners, to prove palpable prejudice becoming wreaked, vis-a-vis their incorporeal rights over the subject sites being jeopardized.

20. However, for the further reasons, as detailed hereinafter, rather no purported prejudice becomes encumbered upon the present petitioners, vis-a-vis their incorporeal rights, vis-a-vis the subject sites, as no cogent material in respect thereof becomes placed on record.

21. Be that as it may, though in view of the supra summarization(s) of the principles, as culled from the judgments (supra), there cannot be any strictly cast straight-jacket formula, thus for ensuring adherence being made to the principles of natural justice. However, when as stated (supra), when for breach, if any, being caused to the rules of natural justice, did yet require the proven wreakings of prejudice to the aggrieved concerned, especially when the statutory rules, do not entail any obligation upon the respondents concerned, to adhere to the principles of natural justice. Therefore, when in the instant case, this Court has stated that sub-Section (5) of Section 5 of the Act of 1963, thus mandating that prior to the finalization of the layout plan, there was a necessity of objections being invited from the aggrieved, rather is not applicable, on the ground, that no statutory declaration was made in terms of Section 4 of the Act of 1963. Resultantly therebys, the effect of non-application of the said provisions, to the subject sites, unless the vires of the said sub-Section became challenged, which however, has not been done, but is that, qua therebys there is a preemption or a foreclosure of any right of personal hearing to the aggrieved. Consequently, the present petitioners

cannot constrain this Court that yet the impugned layout plan is required to be quashed and set aside, unless palpable prejudice becomes provenly encumbered upon the present petitioners, especially, vis-a-vis their incorporeal rights over the subject sites, which however for the reasons to be assigned hereafter rather has not been so demonstrated.

22. In other words, the provisions, as embodied in the Act of 1963, thus are completely inapplicable to the facts at hand. The reasons for stating so, as become underscored from the above discussion *inter alia* are-

(i) That from the contemplations made in Section 4 of the Act of 1963, provisions whereof become extracted hereinabove, whereins, it becomes expressedly stated, that the government is required to be making a notification whereby it declares, any area outside the limits of the municipal town or any other area, which in its opinion, has the potential for building activities, industrial, commercial, institutional, recreational estates etc., thus to be controlled area.

(ii) Therefore, for making applicable the said provisions to the instant facts, such material was required to be existing on record, thus manifesting that in terms of the said provisions, a notification became issued by the respondent concerned, wherebys the subject sites also became declared to be a controlled area.

(iii) However, reiteratedly since it is fairly conceded, before this Court, by all the concerned that no such declaration in terms of Section 4 of the Act of 1963, became made by the government.

23. Therefore, reiteratedly since the precursor, for the applicability of the Act of 1963 but is the making of a notification in terms of Section 4 thereof. However, when the said notification is not made, thus declaring the

subject sites to be a controlled area. In sequel, the provisions of Section 4 of the Act of 1963 are inapplicable to the facts at hand, nor therebys if any provisions thereof became breached at the instance of the respondents concerned, therebys there is no merit in the submissions made by the learned counsel for the petitioners, that as such, the instant conversion is impermissible, nor he can make any argument erected upon the judgments (supra) that the relevant conversion is ridden with vices of gross arbitrariness or excess of executive fiat, or qua the same becomes ridden with a vice of *sub coloris officio.*

24. The reason for stating so stems from the factum, that the Hon'ble Supreme Court and this High Court respectively, had declared the thereins drawings of the relevant plans to be suffering from a gross infirmity, but on the ground that therebys there was a palpable breach caused to the relevant therein statutory provisions. However, since in the instant case, though breach is alleged to be made by the respondents concerned, to the provisions, as become engrafted in the Act of 1963, to the extent that prior to the finalization of the layout plan, there was a requirement of adherence being made to the principles of natural justice by the respondents concerned, through theirs inviting written objections, from the present petitioners, whereas, the said objections becoming not invited, therebys the impugned layout plan is liable to be declared to be *non est*. However, since this Court has hereinabove yet underscored the fact, that the said breaches would be of somber/utmost relevance, only when a notification in terms of Section 4 of the Act of 1963 became made, thus declaring the subject sites to be a controlled area. Moreover since it has also been stated above, that the said notification became not issued, as such, when therebys the other provisions

also requiring adherence thereto being made, rather also did not emerge to the forefront. Therefore, the Act of 1963 is completely inapplicable to the facts at hand, nor the judgments (supra) are applicable to the facts at hand, especially when instantly there are statutory foreclosures against adherence being made to the principles of natural justice. Predominantly also, when the vires of the said statutory foreclosures remains unchallenged before this Court.

25. Now irrespective of a notification in terms of Section 4 becoming not made wherebys the subject lands were thus declared to be controlled area, wherebys, the other statutory provisions' envisaging the makings of adherence to the principles of natural justice by the respondents concerned, through theirs' prior to the finalization of the impugned plan, rather inviting objections from the aggrieved concerned, thus may have emerged to the forefront, rather the trite fact that, Section 24 of the Act of 1963, embodies a savings clause, provisions whereof become extracted hereinafter, thereupon the said saving clause assumes grave/somber relevance.

> ***"24. Savings.***
>
> *Nothing in this Act shall affect the power of the Government or any other authority to acquire land or to impose restriction upon the use and development of land comprised in the controlled area under any other law for the time being in force, or to permit the settlement of a claim arising out of the exercise of powers under this Act by mutual agreement."*

26. A circumspect reading of the above savings clause, discloses that thereins becomes ordained that all the provisions embodied in the Act of 1963, rather shall not restrict, nor affect the powers of the government or any other authority to acquire land or to impose restriction upon the use and development of land comprised in the controlled area under any other law

for the time being in force, or to permit the settlement of a claim arising out out of the exercise of powers under this Act by mutual agreement.

27. Therefore, the effective import of the said savings clause, as carried in the Act of 1963, is that, the power of the respondent or of the HSVP to make acquisitions of any land or to impose restrictions upon the user of the subject sites, which also may become exerciseable over controlled areas, but remaining saved or becoming preserved. Moreover since in terms of sub-Section (2) of Section 15 of the HSVP Act, provisions whereof become extracted hereinafter, the HSVP becomes empowered to dispose of the subject sites even by way of sale, exchange or lease. In addition, when in terms of sub-Section (3) of Section 15 of the HSVP Act, provisions whereof also become extracted hereinafter, thus an empowerment is bestowed upon the HSVP to make sale, lease or make transfers of the subject lands by auction, allotments or otherwise.

> ***"15. Disposal of land.***
> *(1) x x x x*
>
> *(2) Nothing in this Act shall be construed as enabling the [Pradhikaran] [Substituted 'Authority' by Haryana Act No. 28 of 2019, dated 2.8.2019.] to dispose of land by way of gift, but subject to this condition, reference in this Act to the disposal of land shall be construed as reference to the disposal thereof in any manner, whether by way of sale, exchange or lease or by the creation of any easement right or privilege or otherwise.*
>
> *(3) Subject to the provisions hereinbefore contained, the [Pradhikaran] [Substituted 'Authority' by Haryana Act No. 28 of 2019, dated 2.8.2019.] may sell, lease, or otherwise transfer whether by auction, allotment or otherwise, any land or building belonging to it on such terms and conditions as it may, by regulations, provide."*

28. Consequently, since in terms of the supra endowed statutory empowerments, the HSVP adopted the instant mode of disposal of the subject lands, thus through offering them for sale through an e-auction being

conducted. As such, when respondent No. 5 was the successful bidder in the said conducted e-auction, which as stated (supra) was so conducted in terms of the supra bestowed statutory provisions. Resultantly, unless there was evident colorable exercise of powers at the instance of the officer supervising the public auction, whereins, respondent No. 5 was declared to be a highest bidder, therebys the conducting of the public auction, but could not be challenged. Since there is no averment relating to the said conducted e-auction, whereins, respondent No. 5 was declared as a successful bidder, thus suffering from the taint of colorable exercise of powers at the instance of the officer supervising the public auction, and nor when there is any further averment, that the said conducted sale by public auction suffering from any material illegality or irregularity, therebys the rights of the successful bidder(s) in the public e-auction, thus cannot be snatched.

29. In case, any interference is yet made in the outcome of the subject auction bid, despite the fact that the respondent No. 5 has tendered a part of the sale consideration, and, with respondent No. 5 also averring that it is ready and willing to pay the remaining part of the sale consideration. Moreover when, therebys the remaining sale consideration rather has remained untendered, only on account of this Court staying the results of the e-auction. Resultantly when thereupon an enforceable agreement, thus has come into existence between co-respondent No. 5 and the official respondent concerned. Moreover when, the official respondents concerned, has also evinced its readiness and willingness to comply with the obligation cast upon it, in pursuance to the contract/agreement, as became entered into between it and co-respondent No. 5. Therefore, when both the co-respondent No. 5 and the official respondents are ready and willing to comply with the

contractual covenants, as become encumbered upon them. Resultantly when, therebys the official respondents do acquiesce to the enforceability of the apposite contractual covenants. As such, when concomitantly they also acquiesce qua therebys the benefits of the principles of promissory estoppel, and, also the principles of legitimate expectation becoming endowable to co-respondent No. 5. In sequel, the further consequent effect thereof, is that, all the benefits of the supra acquiescences employable qua all concerned, thus *ad idem* becoming accepted to be endowed vis-a-vis co-respondent No. 5.

30. Be that as it may, when the petitioners are not privy to the acquiesced contract entered into amongst the official respondents, and, respondent No. 5, therebys they cannot be permitted to intrude into the said contract, merely on account of the purportedly vitiated instant conversion. Moreover, since this Court has hereinabove concluded, that there was no statutory necessity for adherence being made to the principles of natural justice, therebys, the petitioners were required to place on record, thus such material demonstrating, that in the making of the impugned conversion, their incorporeal rights over the subject sites became severely impaired.

31. However, when for the reasons to be assigned hereinafter, the said permissible premise, thus for the petitioners successfully challenging the impugned layout plan, rather is grossly amiss. Initially for the reason that the houses of the petitioners are situated in proximity to the already operational hospital nomenclatured as Alchemist Hospital. Since the said hospital is opposite/adjoining to the respective homes of the present petitioners. Though, it is averred that owing to heavy congestion of traffic in the locale concerned, therebys the impugned conversion would overload the existing infrastructure. However, the said grouse was required to be initially

raised at the stage when the supra hospital was under construction. However, since then the petitioners permitted the said hospital to become constructed at the relevant site, therebys the petitioners acquiesce to the validity of the construction of the hospital (supra), which exists opposite/adjoining to the houses of the petitioners. Consequently, they are also estopped to contend, that owing to the existence of the said hospital in the vicinity of their homes, therebys there would be an overload of congestion, on the sectoral road concerned, nor but obviously therebys any palpable prejudice is caused to the petitioners, on account of the existence of the supra hospital in the vicinity of their homes.

32. The consequent corollary thereof, is that, when initially the subject sites became earmarked as Nursery and Primary School sites, and, when therebys too, there would be also an increase of congestion of traffic in the locale, which, however, may not occur as the subject sites have been converted into nursing home sites. The reason for stating so becomes garnered from the factum, that the over congestion, if any, on the sectoral road concerned, but appears to become obviated through a proposal for a multi-level parking being created on the subject sites.

33. In the wake of the above, if the impugned conversion is quashed, therebys the proposed thereovers nursery and primary sites, but contrarily would promote an over congestion over the sectoral road concerned, whereupons some prejudice rather would accrue to the present petitioners. The reason being that, in the earlier layout plan, there was no multi-level parking for accommodating the vehicles, thus required to be plied on the sectoral road concerned, rather for taking the students to the schools, and, after the school hours, the vehicles being re-deployed for

taking back the students to their respective homes. Resultantly therebys, the extantly proposed multi-level parking, appears to be a well contemplated functional plan for easing the increased flow of traffic on the sectoral road concerned, wherebys also no prejudice accrues to the present petitioners, thus on account of the present conversion.

34. Now the aspect that the hospital (supra) is in operational in proximity to the subject sites, therefore when the subject sites would augment the health services of the citizens/residents, who are already receiving treatment at the Alchemist Hospital. Resultantly therebys, when contra to the school sites being raised in terms of the initial layout plan in the vicinity of the Alchemist Hospital, there may have been some deleterious effect on the health of the students, who may have been undertaking education at such established schools, inasmuch as, on account of some deleterious emissions or on account of some contagion, if any, which may stem from the hospital premise. As such, for avoiding any impairment to the health of the students, who would undertake education in the schools, to be constructed in the vicinity of Alchemist Hospital, thus therebys the making of the impugned layout plan obviously appears to be made with an insightful vision, but for promoting the health of the students. Therefore, the impugned layout plan is in alignment of Article 21 of the Constitution of India, insofar as the health concerns of the students, who would undertake education in the schools to be raised on the earlier school sites, thus become well attended to. Moreover when therebys, the acquisition of skills by the nurses, who would undertake nursing education in the nursing home sites, to be constructed as per the layout plan, has also been well attended to.

35. Now adjudging from the perspective of the instantly proposed

nursing home sites, thus visibly augmenting the health concerns of the patients already undertaking treatment at Alchemist Hospital, therebys also when the apposite additional infrastructure would be created adjunct to the already operational hospital (supra). Moreover when therebys, the health concerns of the elderly citizens, as also of the ailing children, thus would become well augmented, besides when therebys there would be an intensive training to the nurses also, who would receive education at the nursing home sites, through theirs engaging with the doctors concerned, who administer treatment to the patients inmated in the hospital (supra). Consequently when therebys, there would be an additional augmentation to the health apparatus, thus beneficial to all the residents of the society, therebys naturally the right to life, as enunciated in Article 21 of the Constitution of India, but also would become well furthered. As such, the impugned conversion is in alignment with Article 21 of the Constitution of India, and, does not require the same being quashed and set aside. Contrarily, the impugned legislation is made within the domain of the jurisdiction vested in the competent authority concerned, to alter the internal layout plans, alteration whereof, as stated (supra), is beneficial to the health concerns of the society residents inclusive of the present petitioners, who but would also be the beneficiaries of the health services to be purveyed at the already existing hospital, and, to which the proposed augmentation, thus would occur, through the making of the impugned conversion. Resultantly therebys, rather than prejudice being caused to the present petitioners, they would be the beneficiaries of the impugned conversion.

36. Moreover, since the right to practice of business and occupation is the fundamental right, to which respondent No. 5 is entitled, as respondent

No. 5 is running a hospital nomenclatured as Alchemist Hospital, at the relevant site, to which an augmented infrastructure would be added, therebys the said right to practice business and profession, rather cannot be curtailed through the instant writ petition, unless accruals of demonstrable palpable prejudice to the incorporeal rights of the present petitioners rather became cogently established. Since any purported accrual of prejudice to the incorporeal rights of the petitioners arising from there being an increased flow of traffic on the relevant sectoral roads concerned, when for the reasons (supra), has been declared to be mitigated, through a proposal for creation of a multi-level parking. Consequently, if yet the fundamental right to practice business and profession as endowed, vis-a-vis respondent No. 5, thus is fettered, therebys gross injustice would be wreaked upon co-respondent No. 5.

37. Moreover, since the sale of the subject sites through an e-auction was duly notified, thereupon when at the stage of publication of the e-auction notice, the present petitioners had the right to restrain the respondents concerned, from conducting the public e-auction, but theirs having waived or abandoned the said challenge, therebys the petitioners cannot, at this stage, ask for the quashing of the public e-auction, besides they cannot ask for the concomitant relief, that there has been any arbitrary alteration in the layout plan. If the said is done, thereupon the apposite contract, as entered into, through the issuance of a letter of allotment to the successful bidder(s) concerned, rather would become breached, besides therebys, both the principles of promissory estoppel and the principles of legitimate expectation, as become favourably attracted vis-a-vis respondent No. 5, thus would also become violated, especially when the said principles

have been accepted by the official respondents concerned, to be endowable to co-respondent No. 5.

38. Now assuming that irrespective of no allegation being made by the present petitioners regarding respondent No. 5, being the successful bidder in the e-auction, on the ground, that the auction proceedings became tainted with any material illegality and irregularity. Moreover, irrespective of the fact, that despite the publication of the e-auction notice, the petitioners rather not making a motion before this Court, thus for restraining the respondents from conducting e-auction, wherebys the petitioners may become estopped to make a challenge, thus both to the conversion, and, also to the e-auction, yet paramountly the petitioners, were required to prove, that the mandate embodied in Section 14 of the HSVP Act, and, that all the mandates embodied in Sections 17 and 19 of the Panchkula Metropolitan Development Authority Act, thus requiring theirs becoming effectively applied vis-a-vis the subject sites, did warrant theirs being complied with, especially before the conversion being made. In the wake of the said successful challenges being made, therebys both the public e-auction of the subject sites, besides the prior thereto conversion would become amenable to become declared to be arbitrary and capricious.

39. In the said regard, it is necessary to bear in mind the provisions of Section 79 of the Act of HSVP Act, provisions whereof become extracted hereinafter.

> *"**79. Amendment of Plan**.- (1) The Local Development Authority may make any amendment in the master plan or the sector development plan as it thinks fit, which may in its opinion do not effect important alterations in the character of the plan and which do not relate to the extent of land uses or the standards of*

population density.

(2) The State Government may make amendments in the master plan or the sector development plan whether such amendments are of the nature specified in sub-section (1) or otherwise.

(3) Before making any amendments in the plan, the Local Development Authority, or as the case maybe, the State Government shall publish a notice in at least one newspaper having circulation in the local development area inviting objections and suggestions from any person with respect to the proposed amendment before such date as may be specified in the notice and shall consider all objections and suggestions that may be received by the Local Development Authority or the State Government.

(4) Every amendment made under this section shall be published in such manner as the Local Development Authority or the State Government, as the case may be, may specify and the amendments shall come into operation either on the date of the first publication or on such other date as the Local Development Authority or the State Government as the case may be, may fix.

(5) When the Local Development Authority makes any amendments in the plan under sub-section (1) it shall report to the State Government the full particulars of such amendments within thirty days of the date on which such amendments come into operation.

(6) If any question arises whether the amendments proposed to be made by the Local Development Authority are amendments which affect important alterations in the character of the plan or whether they relate to the extent of land uses or the standards of population density, it shall be referred to the State Government whose decisions thereon shall be final.

(7) Any reference to the master plan or the sector development plan shall be construed as a reference to the master plan or the sector development plan as amended under this section."

40. Though, Section 79 of the Act of 1963 refers to the procedure for making amendments to the initially drawn layout plan, by the local authority, which includes issuing notices and inviting objections. However, Section 61(b) of the Act of 1963, provisions whereof become extracted

hereinafter, defines the Local Development Area, as the area declared as such, under Section 62(1) of the Act of 1963, provisions whereof also become extracted hereinafter.

> ***"61. Definitions**.- In this Chapter, unless the context otherwise requires,-*
> *(a) x x x x*
>
> *(b) "local development area" means the area declared as such under sub-section (1) of section 62."*
>
> *x x x x*
>
> ***62. Declaration of Local Development area**.- (1) If in the opinion of the State Government any area within the State requires integrated planned development, it may, by notification, declare such area to be local development area and such area shall include the area within a town or local authority including a municipal committee or Faridabad Complex Administration, the controlled area declared under the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 (Act 41 of 1963) and the Faridabad Complex Administration Act, 1971 (Act 42 of 1971), or any other area which in the opinion of the State Government is likely to be developed."*

41. A reading of the above provisions reveals, that there is no declaration as such, thus declaring Sector-21, Panchkula as the Local Development Area, therefore, Section 79 of the Act of 1963, rather is not applicable to the subject site, nor therebys any of the statutory provisions relating to the objections being ensured to be received and decided, rather warranted any reverence thereto becoming meted, nor the omission to make any reverence thereto vitiates the impugned layout plan.

42. Furthermore, reiteratedly the petitioners have failed to prove on record qua any prejudice being caused to them. Moreover, reiteratedly insofar as the grievance raised by the petitioner with regard to the problem of parking is concerned, it is well contended in the reply furnished by respondent No. 5, that in order to curb the parking problem in the vicinity, the respondent-HSVP has planned an area measuring 2468 mtrs., for

multilevel parking, besides an additional space of 9 meter wide pavement, thus for common parking, thus has also been planned. Consequently, since the said grievance of the petitioners has already been adequately redressed by the HSVP, therefore, the said purported prejudice has no bearing at all upon the impugned layout plan.

43. Moreover reiteratedly, the nurses in the nursing homes to be established at the nursing home sites would receive training at the adjoining hospital, whereupon when their nursing skills would become enhanced. Moreover also, since the nursing home site is a facility for the residential care of elderly people, senior citizens, or disabled people, and, also when the said nursing home sites are to be also used by those patients, who do not require being admitted in a hospital, but require constant care and supervision. Therefore, since the right to health and medical care is a fundamental right, which includes the right to access the nursing homes, therebys also the said right, as endowed under Article 21 of the Constitution of India, vis-a-vis all supra, but naturally has been taken adequate care in the drawings of the impugned conversion.

Final order

44. In aftermath, this Court finds no merit in the instant writ petition, and, with the above observations, the same is hereby dismissed.

45. The letter of allotment, if not issued, be forthwith issued, and, also the deed of conveyance, if not executed, be ensured to be forthwith lawfully executed between all concerned. Moreover, all the requisite entries, if required, be made in the relevant registers/records maintained by the HSVP.

46. The miscellaneous application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

March 12th, 2025
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No