

Chief Executive Officer Indore Vikas ... vs Director State Of M.P. And 4 Ors. on 1 October, 2026

NEUTRAL CITATION NO. 2026:MPHC-IND:27808

1

IN THE HIGH COURT OF MADHYA PRADESH
AT I N D O R E

BEFORE
HON'BLE SHRI JUSTICE SANDEEP N. BHATT

WRIT PETITION No. 9299 of 2014

CNR No.: MPHC020313742014
INDORE DEVELOPMENT AUTHORITY THROUGH OIC MR
PRATUL SINHA
Versus
CORE LAND DEVELOPERS PVT LTD THRU DIRECTOR
RAJENDRA

Appearance:

Ms. Mini Ravindran – Advocate for the petitioner.
Shri Vivek Dalal, learned counsel for the respondent .

WITH

WRIT PETITION No. 7822 of 2013

CNR No.: MPHC020189012013
CHIEF EXECUTIVE OFFICER INDORE VIKAS PRADHIKARAN
Versus
DIRECTOR STATE OF M.P. AND ANR. AND OTHERS

Appearance:

Ms. Mini Ravindran – Advocate for the petitioner.
Respondent no. 1 is present in person. .

WRIT PETITION No. 7827 of 2013

CNR No.: MPHC020189062013
CHIEF EXECUTIVE OFFICER INDORE VIKAS PRADHIKARAN

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NEUTRAL CITATION NO. 2026:MPHC-IND:27808

2

Versus
DIRECTOR STATE OF M.P. AND ANR. AND OTHERS

Appearance:

Ms. Mini Ravindran – Advocate for the petitioner.
Shri Yogesh Kumar Mittal – Adv. along with Shri Avish Mittal – Adv
for the respondent no.2

WRIT PETITION No. 7870 of 2013

CNR No.: MPH020189492013
CHIEF EXECUTIVE OFFICER INDORE VIKAS PRADHIKARAN
Versus
DIRECTOR STATE OF M.P. AND ANR. AND OTHERS

Appearance:

Ms. Mini Ravindran – Advocate for the petitioner.
Shri Vaibhav Jain – Advocate for respondent no. 2

WRIT PETITION No. 7833 of 2013

CNR No.: MPH020189122013
CHIEF EXECUTIVE OFFICER INDORE VIKAS PRADHIKARAN
Versus
DIRECTOR STATE OF M.P. AND ANR. AND OTHERS

Appearance:

Ms. Mini Ravindran – Advocate for the petitioner.
Shri Vaibhav Jain – Advocate for respondent no. 2

WRIT PETITION No. 8151 of 2013

CNR No.: MPH020196872013

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NEUTRAL CITATION NO. 2026:MPHC-IND:27808

3
CHIEF EXECUTIVE OFFICER INDORE VIKAS PRADHIKARAN
Versus
DIRECTOR STATE OF M.P. AND 4 ORS. AND OTHERS

Appearance:

Ms. Mini Ravindran – Advocate for the petitioner.
Shri Vinay Gandhi along with Shri Rahul Yadav, learned counsel for
the respondent nos. 2 to 5

WRIT PETITION No. 7869 of 2013

CNR No.: MPH020189482013
CHIEF EXECUTIVE OFFICER INDORE VIKAS PRADHIKARAN
Versus
DIRECTOR STATE OF M.P. AND ANR. AND OTHERS

Appearance:

Ms. Mini Ravindran – Advocate for the petitioner.
Shri Vaibhav Jain – Advocate for respondent no. 2

Reserved on : 24/09/2026
Passed on : 01/10/2026

Whether reportable or not ? Yes / No

ORDER

1/ Present petitions are having broadly common questions and are having almost identical facts involved in all the petitions, therefore, all the petitions are heard together and required to be decided. The prayers made in the respective petitions are reproduced as under :

WP No. 7822/13

- (a) a writ direction order in the nature of mandamus or certiorari or as Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 4 deem fit be issued quashing the order Annexure P/3.
- (b) this petition be allowed with costs.
- (c) any other relief which this Hon'ble Court deems fit be also granted.

WP No. 7827/13

- (a) a writ direction order in the nature of mandamus or certiorari or as deem fit be issued quashing the order Annexure P/3.
- (b) this petition be allowed with costs.
- (c) any other relief which this Hon'ble Court deems fit be also granted.

WP No. 7833/13

- (a) a writ direction order in the nature of mandamus or certiorari or as deem fit be issued quashing the order Annexure P/3.
- (b) this petition be allowed with costs.
- (c) any other relief which this Hon'ble Court deems fit be also granted.

WP No. 7869/13

- (a) a writ direction order in the nature of mandamus or certiorari or as deem fit be issued quashing the order Annexure P/3.
- (b) this petition be allowed with costs.
- (c) any other relief which this Hon'ble Court deems fit be also granted.

WP No. 7870/13

- (a) a writ direction order in the nature of mandamus or certiorari or as deem fit be issued quashing the order Annexure P/3.
- (b) this petition be allowed with costs.
- (c) any other relief which this Hon'ble Court deems fit be also granted.

WP No. 7871/13

- (a) a writ direction order in the nature of mandamus or certiorari or as deem fit be issued quashing the order Annexure P/3.
- (b) this petition be allowed with costs.
- (c) any other relief which this Hon'ble Court deems fit be also granted.

WP No. 8151/13

- (a) a writ direction order in the nature of mandamus or certiorari or as deem fit be issued quashing the order Annexure P/3.
- (b) this petition be allowed with costs.
- (c) any other relief which this Hon'ble Court deems fit be also granted.

WP No. 9299/14

- a) That the impugned order dt.04/08/2014 passed by the Court of Commissioner, Ujjain Division, Ujjain in case No. 04/2013-14/Rev. be quashed and the disputed land be ordered to be included in the scheme.

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- b) Any other relief deemed proper and just in the facts and circumstances of the case.

2/ Present petitions are filed by the petitioner / Indore Development Authority [in short "IDA"] being aggrieved and dissatisfied with the impugned order passed by the concerned Authority.. It is noted that in earlier round of litigation, the Co-ordinate Bench of this Court has passed the order in respective writ petitions by rejecting the writ petitions and by confirming the order passed by the Revenue Authority, which was challenged by way of Writ Appeal no. 3094 of 2024 and other connected appeals, wherein the Division Bench of this Hon'ble Court has passed the order dated 16/06/2025 as under :

"30. It is clear from the aforesaid order that the Principal Secretary, State Government has not decided the application filed under Section 52 of the Adhiniyam of 1973 on merit, therefore, the Writ Court has wrongly held that because of the order dated 01.09.2023, nothing remains to be decided in this writ petition. The Principal Secretary has only directed the IDA to examine the subject matter of W.P. No.7871 of 2013, legal grounds, and current circumstances and do the necessary proceedings before the High Court. There is nothing adverse in the order dated 01.09.2023 against the IDA to challenge the order in the pending writ petition by way of amendment. Pushpa Bai, virtually committed contempt of Court by filing an application under Section 52 of the Adhiniyam of 1973 during the pendency of all these writ petitions. She also committed contempt of Court by suppressing important facts of pendency of the writ petition and order of status quo and obtained the order that the application under Section 52 of the Adhiniyam of 1973 be decided expeditiously. Because of this direction, the Principal Secretary has decided the application under Section 52 of the Adhiniyam of 1973, on the basis of which W.P. No.7871 of 2013 has been dismissed and relying on the said order other writ petitions have also been dismissed without adjudication on merit.

31. The validity of the order dated 30.08.2011 has not been decided by the Writ Court on merit, therefore, we have no reason to entertain these writ appeals on merit. Relying on the order passed in the case of Pushpa Bai (supra), the Writ Court has dismissed all other writ petitions treating them to be identical in facts and grounds, whereas in other writ petitions, there is no such order passed under Section 52 of the Adhiniyam of 1973 by the State Government.

32. In view of the foregoing discussions, the order dated 19.12.2023 passed by the Writ Court in W.P. No.7871 of 2023 is hereby set aside. Relying on this order all the writ petitions have been dismissed, hence, all the writ appeals are allowed and impugned orders passed by the writ court are also set aside. All the writ petitions are hereby restored to Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 6 their original number. These writ petitions are remitted back to the Writ Court for adjudication on merit"

3/ It further transpires that one of the matters carried before the Hon'ble Supreme Court, where by considering the age of the petitioner, directed this Hon'ble High Court to decide the matter as expeditiously as possible and accordingly, Writ Petition no. 7871 of 2013 was decided by this Court vide order passed on 03/08/2026 in the case of [Indore Development Authority Vs. The Director](#), the State of M. P and others. In these factual background, the moot question arising for consideration of this Court in these petitions are as under :

" Whether any land for which the development permission is already granted before declaration of any Scheme and was valid on the date of such declaration of Scheme, can be included in such Scheme or if included in any Scheme is liable to be excluded u/s 53 of the M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973 (hereinafter referred as 'the Adhiniyam, 1973')?"

4/ The other contention which is sought to be raised by the counsel for the petitioner that the IDA has raised the contention regarding the applicability of Section 25 of the Adhiniyam, 1973, whereby it is provided that all development in the planning area has to according to the development plan [Master Plan], whether it is done by the IDA or any other statutory authority or by any private landowners. Keeping in mind this basic issue, it is required to be considered the rival submissions made at the bar by the parties.

5/ Learned counsel for the petitioner has drawn attention of this Court that in W.P no. 7822 of 2013, which pertains to Village - Bhanwarsala, Survey nos. 201/1 and 202 /1 admeasuring 1.925 hectares, whereby the proceeding under section 50(1) was initiated on 05/01/2008, the public notice was issued under section 50(2) on 25/07/2008. Under section 50(3), publication in newspaper was done on 23/10/2009. It is also relevant to note that the objections were filed on 16/08/2010 under Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 7 section 50(4). It is also relevant to note that the layout sanction date is 10/03/2006 for the land in question, which is for agricultural godown and as per the submission made by the petitioner, was effective till 09/03/2009 and diversion order was passed on 28/07/2008 only for 1300 sq. ft out of 1.925 hectares. Learned counsel has submitted that revision application was filed on 22/11/2010 and thereafter, order of revision dated 01/12/2011 was passed and therefore, present petitions are required to be filed.

6/ Similar facts are also in W.P. no. 8151/2013, which pertains to Scheme no. 169-A from Chandragupta Maurya Square to Ujjain Road and other five rest of the matters i.e. WP nos. 7870/2013, 7827/2013, 7833/2013, 7869/2013 and 9299/ 2014, whereby other facts are almost similar whereby the order of revision was passed on 26/11/2011 and the Scheme is 169-B instead of 169-A as it is related in earlier two petitions. The land involved in each matters are mentioned as under :

Scheme no. 169-A from Chandragupta Mourya to Ujjain Road Landowners' name / W..P no. Village and Survey number Rajendra Goyal Bhanwarsala W.P no. 7822/2013 201/1 and 202/1 (1.925 hectares) Sunil, Anil, Manoj, Rajubai Village - Kumedi WP no. 8151/2013 33/4 (0.688 hectares) Scheme no. 169-B from Ujjain Road to Airport Road Landowners' name / W.P no. Village and Survey number Aarnath Infrastructure Tigariya Badshah W.P no. 7870/2013 41, 43/1 part, 43/2 (0.619 hectares) Aarnath Infrastructure Tigariya Badshah 12 parts, 13/1 part, W.P no. 7833/2013 13/2 part, 61/1/1 part, 61/1/2 part, 61/1/3 part, 61/1/4 part, 61/1/5 , 63/2 part, 63/3 part, 64/1, 64/2, 64/3, 64/4, 64/5 (4.636 hectares) Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 8 Amita Agrawal and others Village - Bardari WP no. 7827/2013 58 part (1.295 hectares) Aarnath Infrastructure Village - Tigariya Badshah WP no. 7869 / 2013 34/1 part, 34/2 part, 34/3 part (1.668 hector) Coreland Developers Bada Bangarda WP no. 9299 / 2014 511/1 (2.388 hectares) 7/ By pointing out the same, it is contended by the counsel for the petitioner by raising various issues, which are recorded in brief as under :

"The only argument, which is different than the earlier petition decided by this Court is regarding to the applicability of the section 25 of the TNCP Act 1973 in the present case and by raising contention regarding the same, learned counsel for the petitioner has raised contention on various grounds, but the contention under Section 25 of TNCP Act 1973 deals with the land use which is to be in conformity with the development plan:

Conformity with development plan: (1) After the coming into force of the development plan, the use and development of land shall conform to the provisions of the development plan.

Provided that the Director may at its discretion, permit the continued use of land for the purpose for which it was being used at the time of the coming into operation of the development plan.

Provided further that such permission shall not be granted for a period exceeding seven years from the date of coming into operation of the development plan.

(2) Notwithstanding anything contained in section 172 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) every permission to divert land granted under that section shall be subject to the provisions of this Act.

By referring this section, it is contended that any development should be in conformity with development plan and if a person who is having layout sanctioned prior to the coming into force of the master plan then the said land use shall Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 9 be permitted to be continued on a written permission by the Director, Town & Country Planning not exceeding 7 years from the coming into operation of the development plan. The clause no. 6.3.11 of the master plan is also subservient to the provisions of Section 25 of the Adhiniyam had it been a case that the land owner had completely developed the land in accordance to the layout before the coming into force of the master plan, then definitely, the land use before the master plan

would have been protected, but herein this case admittedly till today, no such development activity has been undertaken or completed by the land owners, therefore even the layout sanctioned lapses as being not in conformity with the master plan. Learned counsel has further contended that Section 49 prescribes declaration of Town Development Scheme and Section 50 deals with preparation of Town Development Scheme wherein as per Section 50(2) notification declaring intention to prepare scheme is published and thereafter after inviting objections and passing an order on objections U/s. 50(3) of the Adhiniyam, the final notification U/s. 50(7) is published which specified the date which shall come into operation. The land owner's land which is part of the scheme is either taken by way of agreement or by compulsory acquisition as provided U/s. 56 of the Nagar Tatha Gram Nivesh Adhiniyam. This provision of Section 50 have now undergone drastic changes after the coming into force of the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam 2019. She has reiterated the submissions which are made in earlier petition, which is decided by this Court i.e. W.P no. 7871/2013. Before Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 10 considering those submissions, it is relevant to refer to other application filed under [Order 6 Rule 17 of the CPC](#)"

8/ Learned counsel for the petitioner is heard at length. Learned counsel for the private respondent and the State are heard at length. They have also filed brief written synopsis in support of their say.

9/ It is also pointed out by counsel for the petitioner / Indore Development Authority that an application for grant of interim relief filed under [Order 6 Rule 17 of the CPC](#) for carrying out the amendment in the petition as there are several orders passed, prior to filing of this petition as well as after filing of this petition by various Courts and the some documents, which are relevant for the purpose of consideration, are sought to be placed on record by way of filing amendment application, which was opposed by counsel for the respondent by submitting that the impugned order under challenge is of the concerned Authority / Reviewing Authority passed under [section 52](#) of the Nagar Tatha Gram Nivesh Adhiniyam (in short " the Adhiniyam") and the documents, which are now sought to be relied, are either part of the record by way of various proceedings and the order passed by the Competent Court, which can be otherwise looked into during the course of argument and other documents, which are not part of the record at the relevant point of time, though the petitioner has filed petition at that point of time, now with a view to delay the hearing of the matter and even though there is specific direction of Hon'ble Supreme Court to conclude the hearing within two months looking to the age of present petitioner and therefore, he has objected that neither such documents are relevant for the consideration of the issue involved in the present petition, nor it can be said that many of the documents like the orders passed by the Courts can also be considered by citing during the course of argument, therefore, he has submitted that Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 11 such application is not required to be heard and the main matter can be heard 10/ I have considered the rival submissions made by both the parties and also the fact that looking to the nature of the amendment application, which is filed, is consisting pages more than the original petition by way of seeking amendments, which are certainly in the nature of producing some documents, sale-deed, photographs and also some orders passed by the Authority. Those documents can be certainly referred at the time of argument to understand the case of the parties in proper manner, but not required to be produced at such belated stage, which is as not necessary pleadings for constitution of this petition also, can change the colour of the litigation to some extent, moreover, looking to the nature of prayers made in the present petition is essentially by challenging the order passed by the concerned Authority of the M.P. State Government under [section 52](#) of the Adhiniyam and therefore, I found it not require to consider by allowing such application at the belated stage, which as such not direct bearing with subject of the present petition, Therefore, the matter is heard at length.

11/ The fact of the case in brief is that the IDA had preferred writ petition before this Court on the ground that the respondent no. 2 has failed to carry out development as per sanctioned layout dated 26/09/2005, hence the land could not have been directed to be released. The Writ Petition was disposed of on the ground that since the government has issued an order dated 01/09/2023 the petition does not survive. Thereafter, the IDA preferred Writ Appeal before Division Bench of this Court and the same were disposed of by remanding the matter back to the Writ Court, essentially on the ground that since scheme no. 169-A has been substantially implemented and the Respondent No. 2 Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 12 had obtained the order of government dated 01/09/2023 based on an order passed in Writ Petition 18970/2020 behind the basis of IDA, Against the order passed in Writ Appeal no. 3094/2024, respondent No. 2 preferred SLP (C) Diary No. 624469/2025, which was disposed of vide order dated 17/11/2025 by requesting the High Court to take up Writ Petition no. 7871/2013 i.e. present petition for final hearing at the earliest and the same be disposed of with appropriate judgment within two months, as also by observing that the Writ Petition shall be decided by the High Court without being influenced in any manner by any of the observation made in the impugned order. Hence present petition is placed before this Court.

12/ Learned counsel for the petitioner / IDA has submitted that if the land in question is released, it will frustrate the planning of the scheme no. 169-A and 169-B as the huge chunk of is land involved in the present scheme i.e. 14,575 hectares. She has further submitted that from bare reading of [section 25](#) of the Adhiniyam, it is quite clear that any development should be in conformity with development plan Admittedly till today no such development activity has been undertaken or completed by the land owners, therefore even the layout sanctioned lapses as being not in conformity with the master plan.

13/ Learned counsel has further submitted that it is quite clear from the bare reading of [section 53](#) of the Adhiniyam that after the declaration of the scheme what is saved is only the development undertaken instituted authorized by the Director. [Section 53](#) of the Adhiniyam does not contemplates release of land from the scheme merely on the ground of there being a layout sanctioned prior to the declaration of the scheme but what is saved is the development undertaken on the land in question in accordance to the development Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 13 authorized by the Director in accordance to the provisions of the act. Thus the land owner's land could not have been released from the scheme only on account of the fact that the layout was sanctioned prior to the declaration of the scheme as [section 53](#) of the Adhiniyam does not contemplate this exigency. [Section 53](#) of the Adhiniyam does not contemplate release of land but contemplates restrictions on actual use and development of land merely having sanction on paper will not be enough to attract the saving as contemplated in [section 53](#) of the Adhiniyam.

14/ She further submitted that there is no averment or pleading in the objection filed by the land owner or even in the revision filed before the Revisional authority U/s. 51 of the Adhiniyam, therefore the layout sanctioned proposing a land use contrary to the master plan is nonest in the eyes of law and such development permission cannot be a ground to release the land from the scheme no. 169-A. In view of the aforesaid, it is prayed that the present petition be allowed.

15/ Per-contra, Shri Vaibhav Jain, learned counsel for the various respondents have raised various contentions. The counsel in W.P nos. 7827/2013, 7833/213, 7869/2013 and 7870/2013 have raised several contentions on merits. Though other contentions are almost similar to the contentions raised in the earlier petition, which is decided by this Hon'ble Court, that will be discussed later. The contention, which is specifically raised by the counsel, is that apart from the decided cases, in the list more than 500 cases of various schemes, the IDA itself has excluded such lands from its schemes and in numbers of cases, the Director, TNCP, while deciding the revisions under [section 51](#) of the Adhiniyam, and the IDA is accepting the said revisional order, has excluded such lands from its various scheme without any challenge to the same, therefore, the Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 14 questions is required to be asked to the IDA, whether it is open for the IDA to deviate from its settled policy / decision or whether it is open for the IDA not to challenge the revisional orders in numbers of cases and now, challenging some of the revisional orders on selective or pick and choose basis. The list of such cases where the IDA itself may be mentioned that, this practice of IDA has been condemned by this Hon'ble Court. The list of some of the cases is already pointed out Annexure R/2-E and R/2-F by the respondent no. 2 in his reply. It is also contended that it may not also be mentioned that it is only irrelevant to contend that the landowners pursuant to their development permission did not fully develop their lands because the relevant date is the date of declaration of Scheme and whether there was any valid and effective development was already granted before declaration of the Scheme. In all cases, the lands of hundreds of landowners were excluded from the scheme solely on the ground of pre-existing development permission irrespective of fact, whether any development is done or not ?. Learned counsel have further submitted that the petitioner has tried to create false impression that the planning area, only the IDA can develop the land and no other person or landowners can carry out any development. It has also tried to contend that only the IDA can carry out development according to the development plan and any private development would be contrary to the development plan [Master Plan].

16/ In this regard, counsel for the petitioner has contended that according to the [Section 25](#) of the Adhiniyam, all development in the planning area has to be according to the Master Plan, whether it is done by IDA or any other statutory authority or by any private landowners. The layout plans of respondent no. 2 are also sanctioned as per the development plan making the provision of the Master Plan Roads and Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 15 therefore, the private landowners develop their lands or whether it is developed by the IDA, the same would be according to the Master Plan. Learned counsel has [placed reliance upon](#) the various judgments which are as under :

WP No. 14605/2006(Jabalpur) Shriram Builders x State-IDA decided on 14/08/2007.

WP No. 5706/2016, WP No. 5707/20216, WP No. 5710/2016, WP No. 5711/2016, WP No. 5713/2016 & WP No. 3658/2016 IDA x Town And Country Planning decided on 19/06/2017.

WA No. 549/2017, WA No. 548/2017, WA No. 550/2017, WA No. 904/2017, WA No. 905/2017 & WA No. 904/2017 IDA x Town And Country Planning, decided on 18/09/2024. (DB) WP No. 7871/2013 IDA x State decided on 03/08/2026. WP No. 7732/2016 UDA x Geeta Totla decided on 11/07/2018 WP. No. 7731/2016 UDA x Vinita Jain decided on 11/07/2018 WA No. 1480/2018 UDA x Vinita Jain decided on 22/04/2019 (DB) WA No. 1481/2018 UDA x Gita Totla decided on 22/04/2019 (DB) SLP(C) Dairy No. 29394/2019 UDA x Gita Totla decided on 06/09/2019 SLP(C) Dairy No. 29393/2019 UDA x Vinita Jain decided on 06/09/2019 17/ Shri Vivek Dalal, learned counsel for the respondent in W.P. no. 9299 /2014 has also raised several contentions in support of the contentions made by Shri V.K. Jain, Sr. Advocate for the respondent like submitting that the Super Corridor land use as per the Clause no. 6.8.8 of the Master Plan is in force w.e.f. 01/01/2008 and MR-10 Project from Sukhaliya to Ujjain is one of the Project of the Master Plan. He has further submitted that Scheme nos. 169-A and 169-B are also relevant for consideration of bunch of this petitions. In this background, he has submitted that during pendency of these petitions, interim order dated 24/07/2013 was passed for maintaining status-quo. He has further Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 16 submitted that 18/ Learned counsel has further submitted that a true objective and purposive reading of [section 53](#) of the Adhiniyam shows that no sooner a development authority publishes its intention to frame and prepare a TDS, the land use of every land covered including private lands, stands freezed and even an individual person cannot change the land used thereby prohibiting development due to freezing of the land use. He has also submitted that the last part of quoted [section 53](#) of the Adhiniyam clearly shows that notwithstanding, the freezing of such land use, development of any land included in proposed scheme is not prohibited, provided it is covered by a sanction granted by the Director, "prior to publishing of such declaration". He further submitted that even in a situation, where land use of a land, likely to be included in the scheme to be prepared, is freezed even then such land can be developed if it is covered by sanction of a layout granted by the Director prior to declaration of intention to frame scheme [u/s 50\(2\)](#) of the Adhiniyam . He has further submitted that this principle has been appreciated by this court in Writ Petition 7732/2016 [UDA Vs Geeta Totla] by judgment dated 11/07/2018 and land covered by previous layout sanctioned has been directed to be excluded from the scheme. This judgment has been affirmed in Writ Appeal 1481/2018 [UDA VS. Geeta Totla] by judgment dated 22/04/2019 and SLP preferred by UDA being SLP (C) Dairy No. 29393/2019 has been dismissed on 06/09/2019. Learned counsel has further submitted that [section 53](#) of the Adhiniyam has been interpreted by the Apex Court in the same. fashion in judgment of Hon'ble Supreme Court delivered in the case of Chairman, IDA Vs. Pure Industrial Coke and Chemical Limited reported in (2007) 8 SCC 705.

Therefore, learned counsel prays for dismissal of present petition.

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NEUTRAL CITATION NO. 2026:MPHC-IND:27808 17 19/ Learned counsel for the respondent / State has submitted that from bare perusal of the said sanctioned map, it clearly transpires that the land belonging to the answering respondents forms part of the land specifically shown as exempted land by the IDA itself. Once the petitioner has itself acknowledged the respondents' land as exempted in the sanctioned map, the petitioner cannot now be permitted to take a contrary stand before this Court. It is further submitted that the present review petition is wholly misconceived and is, in fact, an attempt to seek a rehearing of the matter on merits. The scope of review jurisdiction is extremely limited. A review can be entertained only when there is an error apparent on the face of the record. The petitioner has failed to point out any such apparent error in the judgment under review. On the contrary, the petitioner has sought to re-agitate the factual matrix of the case and invite this Court to undertake a fresh appreciation of facts and evidence, which is impermissible in review jurisdiction. Learned counsel has further submitted that the competent authority acted strictly within the four corners of its statutory jurisdiction while passing the impugned order. The order is well-reasoned, legal, and fully sustainable in the eyes of law. No jurisdictional error, perversity, or patent illegality has been demonstrated so as to warrant interference by this Court. In these circumstances, the petition, being devoid of merit, be dismissed with exemplary costs.

20/ I have considered the rival submissions made at the bar. The main contentions of the petitioner 21/ The main contention of the petitioner is about the applicability of the [Section 53](#) of the Adhiniyam. It is relevant to note that on 26/09/2005, the JD, TNCP sanctioned a layout plan of Survey No. 36/1 for an area. 1.368 Hec. for industrial purpose. On 16/01/2008, the Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 18 Respondent No. 2 applied for diversion u/s 172 of the Madhya Pradesh Land Revenue Code and the SDO sent a letter to the Indore Development Authority (in short "IDA") and the Town and Country Planning (in short "TNCP") department seeking their opinion. On 16/01/2008, the SDO sent a letter to Nazul Officer seeking his opinion. On 10/01/2008, the Gram Panchayat, Kumedi granted NOC for Diversion. On 11/07/2008, the IDA passed resolution no. 198 [u/s 50 \(1\)](#) of Adhiniyam for framing scheme no. 169-A. On 25/07/2008, under [section 50 \(2\)](#) of the Adhiniyam, the intention to frame scheme no. 169-A was published in the newspaper. On 01/08/2008, the same was published in the gazette. On 15/10/2009, the draft scheme no. 169-A was published in newspaper inviting objection. On 23/10/2009, the draft scheme no. 169-A was published in gazette inviting objection. On 23/10/2009, the Respondent No. 2 pushpa bai submitted her objection to draft scheme no. 169-A. On 16/08/2010, the objection of respondent No. 2 was rejected by the IDA. It also transpires that the final scheme no. 169-A was published in newspaper [u/s 50 \(1\)](#). The Respondent No. 2 filed an revision no. 3 of 2011 before Director, TNCP, Bhopal. On 07/05/2011, the IDA filed a reply in the revision. On 30/08/2011, the Revision of Respondent No. 2 was allowed by the Director and based on the principles flowing from [section 53](#) of the Adhiniyam. The land of Respondent No. 2 of survey no. 36/1, village Kumedi was directed to be excluded from scheme 169-A as its layout was sanctioned on 26/09/2005 much before the IDA declared, its intention to frame the scheme 169-A on 01/08/2008. The IDA submitted representation to the P.S., Housing & Environment Department, Bhopal seeking permission to file Writ Petition on 17/04/2013. On 08/05/2013, the Housing and Environment of Department issued a clarification in Clause 7.3 stating that on the ground Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 19 of previous sanction of layout before declaration of intention under section 50 (2) of the Act, the land should not be released.

22/ He has also cited some judgments in support of his contentions, which can be discussed later on.

23/ Shri Vinay Gandhi, learned counsel for respondent no. 2 to 5 in W.P. no. 8151 of 2013 has submitted that the present writ petition is fundamentally misconceived and legally barred on the ground of maintainability, as the Petitioner has no locus to challenge the impugned order passed by its superior authority (Annexure -P/2) and is duty-bound to act as per the direction issued by the Director, Town & Country Planning Department. That the impugned order is passed under [Section 51](#) of M.P. Nagar Tatha Gram Nivesh Adhiniyam, which provides revision jurisdiction to the Director of the Town & Country Planning Department. For the bare perusal, [Section 51](#) of the Adhiniyam is reproduced herein:

"51. Revision. The Director may, at any time, but not later than two years from the date of publication of the final town development scheme, under [Section 50](#) on his own motion or on an application filed within thirty days of such publication of the final scheme by any person aggrieved by the final scheme, call for and examine the record of any scheme for the purpose of satisfying himself as to the correctness of the order passed by the Town and Country Development Authority, or as to the regularity of any proceedings of such authority and when, calling such record direct that the execution of the scheme be suspended. The Director may, after examining the record, pass such order as he thinks fit and his order shall be final.

Provided that no order shall be passed unless the person affected thereby and the Town and Country Development Authority have been given a reasonable opportunity of being heard".

24/ Therefore, the petitioner is duty-bound to implement the Director's order dated 01.12.2011 releasing the Respondents' land, and has no locus to file the present petition. That in the case of [Mohtesham Mohd. Ismail v. Spl. Director, Enforcement Directorate \(Order\)](#) dated 9 October, 2007 under Appeal (crl.) 1216 of 2001, the Hon'ble Supreme Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 20 Court has observed as under:-

"13. An adjudicating authority exercises a quasi-judicial power and discharges judicial functions. When its order had been set aside by the Board, ordinarily in absence of any power to prefer an appeal, it could not do so. The reasonings of the High Court that he had general power, in our opinion, is fallacious. For the purpose of exercising the functions of the Central Government, the officer concerned must be specifically authorized. Only when an officer is so specifically authorized, he can act on behalf of the Central Government and not otherwise. Only because an officer has been appointed for the purpose of acting in terms of the provisions of the Act, the same would not by itself entitle to an officer to discharge all or any of the functions of the Central Government. Even ordinarily a quasi-judicial authority can not prefer an appeal being aggrieved by and dissatisfied with the judgment of the appellate authority whereby and whereunder its judgment has been set aside. An adjudicating authority, although an officer of the Central Government, should act as an impartial Tribunal. An adjudicating authority, theridurkin absence of any power conferred upon it in this behalf by the Central Government, could not prefer any appeal against the order passed by the Appellate Board The Madras High Court in Roma Arangannal (supra) opined

4. On the question as to the maintainability of the appeal, it is seen that the Explanation to [Section 54](#) of the Foreign Exchange Regulation Act 1973 treats only the Central Government as an aggrieved party for the purpose of filing an appeal to the High Court in respect of orders passed by the Foreign Exchange Regulation Appellate Board under that section. Therefore, only the Central Government can file and prosecute an appeal against the order of the Appellate Board, and not any other authority. In this case, the appeal has been filed by the Director of Enforcement, who is the initial authority who passed the adjudication order against the respondents and whose order has been set aside by the Appellate Board on an appeal filed by them. Therefore, the Director of Enforcement cannot be said to be aggrieved by the order of the Appellate Board merely because its order of adjudication has been set aside by the Appellate Board. The Punjab and Haryana High Court in Lal Chand (supra) followed the said decision."

25/ Therefore, the petitioner lacks the standing to challenge the impugned order passed by the superior authority, and is duty-bound to act as per the direction issued by the Director, Town & Country Planning Department. The Respondents No. 2 to 5 have commenced and completed substantial factory establishment and development based on the 23.08.2006 permission (Annexure R\2-2) years before the Petitioner published its intention to float the scheme. Even assuming that the Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 21 development was not completed, the Respondents are saved under Rule 23 (3) of the Madhya Pradesh Bhumi Vikas Niyam, 2012 and the permission remains entirely valid under Rule 23(3) of the Madhya Pradesh Bhumi Vikas Niyam, 2012. That the sub-rule (3) of Rule 23 is reproduced as under:

"(3) In cave execution of the project begins during the validity of the permission granted under [Section 30](#) of the Act, the permission shall not be deemed to lapse thereafter at any time and no re-validation shall be required."

26/ It is also worth noting that the respondents decisively commenced development within the validity period by securing a Term Loan of Rs. 25 lacs from the M.P. Finance Corporation on 05.03.2007, purchasing machinery worth Rs. 13,83,350/- on 07.08.2007 and successfully establishing a fully operational factory much prior to publication of intention to develop the scheme under [Section 50](#) of the M.P. Nagar Tatha Gram Nivesh Adhiniyam. Because the Respondents have commenced factory establishment and development based on the 23.08.2006 permission (Annexure R/2-2), the said permission is immune from lapsing. The protective scope of Rule 23 (3) of the M.P. Bhumi Vikas Rules, 2012 has been routinely upheld by the Madhya Pradesh High Court.

27/ In the case of Smt. Padma Bansal V. Municipal Corporation, Gwalior and Others (Order dated 21.08.2024 in WP No. 1162/2023), wherein our own Hon'ble Court (Bench at Gwalior) has categorically observed that the refusal of the authorities to apply the protective umbrella of Rule 23(3) to projects where work had already commenced is 'wholly perverse and without any due application of mind. Concluding the judgment, the High Court quashed the arbitrary orders of the municipal authorities that had unlawfully ignored this statutory protection, ruling that authorities cannot treat a permission as lapsed or Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 22 demand re-validation once work has commenced. Therefore, because the Respondents No. 2 to 5 in the present case decisively commenced development and completed substantial factory establishment by securing a loan and purchasing machinery during the validity period, the 23.08.2006 permission is permanently saved from lapsing. The Copies of relevant documents like the licence bills, Electricity bills, Sales tax registrations and other documents, which clearly demonstrate the development of the subject land. That aforesaid documents are marked and attached with the reply filed by the Respondent No. 2 to 5, as Annexure -R/2-7, R/2-8, R/2-9 respectively. The Photographs showing establishment of the factory are marked and attached with the reply filed by the Respondent No. 2 to 5, as Annexure -R/2-11 The Petitioner's writ petition is hopelessly barred by the doctrine of delay and laches, rendering it liable for outright dismissal. That, the Revisional Authority passed the final, binding order directing the release of the Respondents' land (Annexure P/2). However, the Petitioner inexplicably waited until 2013 to file the present Writ Petition, resulting in an unjustified lapse of almost two and a half years. The Petitioner attempts to excuse this inordinate delay in its pleadings by citing its status as an "impersonal machinery," internal board reviews, and time spent seeking a generalised clarification from the Principal Secretary, Housing and Environment. The Supreme Court of India has repeatedly held that government bodies and statutory authorities do not enjoy special privileges or immunities regarding delays in constitutional courts. This defence is legally defunct and has been expressly rejected by the Supreme Court of India. In the landmark case of [Office of the Chief Postmaster General v. Living Media India Ltd. and Ors.](#), AIR 2012 SC 1506, the Supreme Court categorically held that government departments cannot claim special Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 23 privilege or immunity on the pretext of "bureaucratic red tape" or being an "impersonal machinery." The Court ruled that state instrumentalities must act with the same diligence as private litigants. This strict standard was powerfully reaffirmed in [State of Madhya Pradesh and Ors. Vs. Bherulal](#), (2020) 10 SCC 654, the Hon'ble Supreme Court came down heavily on state instrumentalities that file belated petitions while mechanically citing "administrative processes," inter-departmental consultations, or bureaucratic red tape. The Court termed such excuses as a "certificate of incompetence" and categorically ruled that the State and its agencies cannot claim any special privilege or immunity from the law of limitation by hiding behind the veil of being an impersonal machinery. Furthermore, the 08.05.2013 (Annexure - P/4) administrative clarification relied upon by the Petitioner does not mention the disputed land, was not issued in furtherance of the Petitioner's representation, and grants no fresh legal cause of action to challenge the Order dated 01.12.2011 (Annexure P/2). Because the Petitioner actively slept over the binding order and wasted time pursuing non-statutory executive clarifications, relying on a bureaucratic excuse explicitly struck down in the case of Bherulal, the petition suffers from fatal laches and must be dismissed. That the core grievance of the Petitioner is that releasing the Respondents' land would completely frustrate the execution and planning of Scheme No. 169-A, which is demonstrably false and directly contradicted by their own sworn submissions. In their amendment Application bearing 1. A. no. 3446/2026 dated 10.04.2026, the Petitioner explicitly admits that 13.51% (10.746 Hectares) of the private land designated for Scheme No. 169-A remains unacquired, lacks executed agreements or sale deeds, and is currently tied up in ongoing litigation.

28/ That in the identical and de-linked Petition bearing Writ Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 24 Petition no. 7871/2013 ([Chief Executive Officer Vs Director, State of M.P.](#)) decided on 03.08.2026, wherein this Hon'ble Court dealt with in observation that the prayer of the Petitioner is in the nature of a writ of certiorari under [Article 226](#) of Constitution of India. That the Hon'ble Court has dismissed the above identical writ petition after relying on the various judgments, with an observation that no reason is made out to interfere by issuing a writ of certiorari by exercising powers under [Article 226](#) of the Constitution of India.

29/ In light of the aforesaid facts and circumstances of the case, the Petitioner's writ petition is wholly devoid of merit and legally untenable. The Respondents land is strictly shielded under [Section 53](#) of the M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973, by virtue of prior, un-lapsed development sanctions and the development of the subject land. Therefore, the instant Petition may kindly be dismissed, with costs.

30/ Shri Yogesh Mittal, learned counsel for the respondent no. 2 in W.P. no. 7827 of 2013 has submitted that the factual matrix of the present petition is substantially identical to W.P. No. 7871/2013. In both matters, the respective respondents had obtained development/layout sanction prior to the publication of the intention to frame the concerned scheme under [Section 50\(2\)](#) of the Adhiniyam; their objections to the draft scheme were rejected by the IDA; and thereafter the revisional authority, exercising powers under [Section 51](#), directed exclusion of their respective lands from the scheme by applying the principles flowing from [Section 53](#) of the Adhiniyam. In the present case also, the respondent's layout was sanctioned on 30.06.2006, whereas the intention to frame Scheme No. 169-B was published only on 25.07.2008 in the newspaper and on 01.08.2008 in the Gazette. Thus, the sanction pre-dated the initiation of the scheme by a considerable period. The revisional order Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 25 dated 22.10.2011 was passed on the same principle which formed the basis of the order considered in W.P. No. 7871/2013, namely, that where the development/layout had been sanctioned prior to the declaration of intention to frame the scheme, the land was liable to be excluded from the scheme in accordance with the principles flowing from [Section 53](#) of the Adhiniyam.

31/ Learned counsel has submitted that view of the aforesaid judgment dated 03.08.2026 and the identical factual and legal position, no distinct ground survives for consideration in the present petition. The petitioner-IDA cannot seek a different result in the present matter when the same issue, arising in materially identical circumstances, has already been adjudicated by this Hon'ble Court.

32/ I have considered the rival submissions made at the bar by the parties and also considered the judgments cited by both the parties.

33. Considering these aspects and the factual background, now it is relevant to consider the submissions made by rival parties by referring to the various judgments as under :

a) [Central Coal Fields Vs. State of MP and others](#) [1995(2) SCC 11 (para nos. 7 and 8)

b) Indore Development Authority Vbs. Burhani Grah Nirman Sahakari Sanstha Maryadit [2023 SCC Online SC 3123]. Para nos. 53 and 67.

c) [Kalicharan and others Vs. State of UP and others](#) [2024 SCC Online SC 3472] Para nos 38 and 41.

d) [Ikisvi Sadi Grah Nirman Samiti Vs. State of MP](#) and othes [WA no. 69/2020] Para nos. 19, 22, 26 and 27.

e) [Gauradevi Vs. State of MP](#) and othes [WP no. 5827/2021] Para no. 9.

f) Bhonduramaswami and others Vs. Bangalore Development Authority and others [2010 (7) SCC 129] Para nos. 103 and 140.

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g) [Raipur Development Authority Vs. Anupam Sahakari Grah Nirman Samiti and others](#) [2000(4) SCC 357] Page nos. 16 and 17.

h) [Anand Buttons Ltd Vs. State of Haryana and others](#) [2005(9) SCC 164].

i) [Mumbai International Airport Vs. Regency Convention Centre and others](#) [2010(7) SCC 417].

j) State of Orisa Vs. Titaghar Paper Mill Company Ltd and another [AIR 1988 SC 1293] 34/ The above mentioned judgments are cited by learned counsel for the petitioner / I.D.A., but on the facts of the case, the above judgments are not helpful to the case of petitioner, though there is no quarrel about the ratio of those judgments delivered by Hon'ble Supreme Courts as well as the High Courts.

35/ In the present case, in the factual background and also considering the position of law, it is also relevant to note the judgment cited by learned counsel for the respondent/s, which is in similar facts of the present case. [Writ Petition no. 7732 of 2016 [UDA Vs. Geeta Totia decided on 11/07/2018]. For the sake of reference, relevant part of which is reproduced as under :

Facts of the case are not in much dispute. The respondent No.1 was granted permission of development on 08.09.2006. Thereafter, she has constructed one room and fencing. The petitioner has published the notification under [Section 50\(2\)](#) on 23.01.2011 and before that the respondent has already obtained a permission of development. The moment notification under [Section 50\(2\)](#) issued, [section 53](#) comes into operation. Thereafter the respondent No.1 was not in a position to carry out any development over the land. This fact was well within the knowledge of petitioner that the permission had already been granted to the respondent No.1, therefore, the said land ought not to have been included in the scheme.

Even otherwise, as per the departmental note placed before the committee constituted under [Section 50\(3\)](#) and (4), total area of Survey No.142 is 2.341 hectare and out of 6 which only 1.714 has been included in the scheme and there is no sanction for area 0.627 hectare and as per the spot inspection report, the land owners have Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 27 constructed their house over Survey No.142 and almost all the land has been developed. The aforesaid note is reproduced below:

rglhy fjdKMZ vuqlkj xzke 'kDdjoklk Hkwfe losZ ua- 142 dk dqYk jdek 2-341 gSoA uxj rFkk xzke fuos'k }kjk dk;kZy;hu i= dza-954@th;w@35@09@uxzkfu fnukad 19-08-09 }kjk ;kstuk ysrs le; 0-494 gSo Hkwfe ds vfHkU;kl dh Lohd` `fr dh lwpuk nh xbZ FkhaA mDr jdes dks NksMdj izkf/kdj.k }kjk ;kstukUrxZr 1-951 gSo ;kstuk esa lfeefyr fd;k x;k Fkka rn~le; vkosnd dh Hkwfe jdek 0-418 gSo ds vfHkU;kl dh Lohd` `fr dh lwpuk uxj fuos'k foHkx }kjk ugha nh xbZ Fkha uxj rFkk xzke fuos'k foHkx }kjk fofHkUu Hkwfe Lokfe;ksa ds tks vfHkU;kl tks Lohd` `r fd;s x;s Fks mlDs la'kksf/kr vfHkU;kl dh lwph i= dza- 1036@th;w@38@09@uxzkfu fnukad 30-04-2011 ls iqu% tkudkj izkf/kdj.k dks nh xbZ Fkha ftlesa vkifRdrkZ Jherh fofurk tSu ds vfHkU;kl dh Lohd` `fr dh lwpuk lfeefyr gSA vkifRdrkZ }kjk fn;s x;s nLrkost ,oa uxj rFkk xzke fuos'k foHkx }kjk nh xbZ lwph vuqlkj vkifRdrkZ Hkwfe Lokhe fofurk tSu dh Hkwfe xzke 'kDdjoklk losZ dza- 142 esa ls jdek 0-418 gSo Lo; ds vkokl gsrq milapkyd uxj rFkk xzke fuos'k mTtSu ds i= dza- 1105@uxzkfu@06 fnukad 08-09-2016 }kjk nh xbZ gSA uxj rFkk xzke fuos'k foHkx }kjk nh xbZ lwph fnukad 30-04-11 vuqlkj xzke 'kDdjoklk ds losZ dza-142 dqy jdek 2-341 gSo esa ls 1-714 gSo Hkwfe ds vfHkU;kl dh Lohd` `fr fn;s tksu dk mYYks[k gSA bl izdkj ek= 0- 627 gSo Hkwfe ij uxj rFkk xzke fuos'k dh dksbZ Lohd` `fr ugha gS LFky fufj{k.k vuqlkj losZ dza- 142 dh lEiw.kZ Hkwfe ij vyx&vyx HkwfeLokfe;ksa ds ,d&d edku cus gS ,oa vkl&ikl Hkwfe [kkyh gSA HkwfeLokfe;ksa }kjk viuh&viuh Hkwfe ij ok;j Qsflax dh xbZ gSA tks fofHkUu HkwLokfe;ksa dh vyx&vyx VwdMksa esa fLFkr gSA losZ dza- 142 dh vf/kdka'k Hkwfe LFky ij fodlhr gks pqdh gSA By order dated 30.12.2015, the commissioner Bhopal has granted one month's time to the petitioner to prepare an amended scheme. The petitioner took 11 months to file present petition and there is no material available in the writ petition to show that since 2013 any development work has been started by the petitioner. After the lapse of 4 years, no steps have been taken by the petitioner to 7 implement the scheme. Even, the lands included in the scheme have not been acquired by way of mutual agreement or acquisition, therefore, no interference is called for, hence, petition is hereby dismissed.

36/ The aforesaid order was challenged by the Authority by Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 28 way of Writ Appeal nos. 1480 of 2018 and 1481 of 2018, which is like identical to facts of the present petition. For the said of reference, relevant paragraph nos. 11 to 16 are reproduced as under :

11- The another important aspect of the case is that after issuance of notification under [Section 50\(2\)](#), [Section 53](#) comes into play. [Section 53](#) of the Act of 1973 reads as under:-

"Restrictions on land use and land development.-As from the date of publication of the declaration to prepare a town development scheme, no person shall, within the area included in the scheme, institute or change the use of any land or building or carry out any development, save in accordance with the development authorised by the Director in accordance with the provisions of this Act prior to the publication of such declaration."

In light of the aforesaid statutory provision the respondent No.1 was not in a position to carry out any further development activity over the land and the factum of development permission granted in favour of respondent No.1 was well within the knowledge of Ujjain Development Authority and therefore, by no stretch of imagination the land could have been included under the development scheme.

12- It is also an undisputed fact that the application for diversion of land of respondent No.1 was allowed, which was preferred under Section 172 of the M. P. Land Revenue Code, 1959 and thereafter, the Town and Country Planning Department has granted development permission on 08/09/2006.

13- The another important aspect of the case is that large number of area included in the scheme has already been excluded from the scheme and the land belonging to the other identically placed land owners has already been excluded by the Ujjain Development Authority. A list was submitted by Town and Country Planning Department in respect of persons, who were granted development permission, however, the respondent No.1 has been discriminated in the matter and in those circumstances, the Revisional Authority has allowed the revision.

14- The order passed by the Revisional Authority is a well reasoned order and the learned Single Judge has rightly declined to interfere with the order passed by the Revisional Authority.

15- The present case reflects a hostile discrimination shown by the Ujjain Development Authority. The land belonging to other persons who were having development permissions, have been excluded from the development scheme and the land belonging to respondent No.1 was not excluded and therefore, as it was a case of hostile discrimination, there is a clear violation of [Article 14, 16](#) and Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 29 21 of the Constitution of India. The Revisional Authority was justified in allowing the revision preferred by respondent No.1.

16- Learned Single Judge has also given a finding of fact that after lapse of four years, the Ujjain Development Authority has not taken any steps to implement the scheme. The lands which form part of the scheme has not been acquired by way of mutual agreement or by way of acquisition and therefore, in the considered opinion of this Court, as there was a sanctioned development plan in respect of land belonging to the respondent No.1 sanctioned way back in the year 2006, the land of the respondent No.1 could not have been included in the scheme as held by the Revisional Authority and as held by the learned Single Judge. This Court does not find any reason to interfere with the order passed by the learned Single Judge. Accordingly, the admission is declined in both the appeals and the appeals are dismissed.

37/ It also further transpires that there being aggrieved by that order, the Ujjain Development Authority i.e. UDA had challenged that order by way of filing Special Leave Petition (Civil) Diary no. 29393 of 2019 and by order dated 06/09/2019, passed the following order by dismissing the S.L.P. :

"Delay condoned.

We are not inclined to interfere with the impugned order. The special leave petitions are, accordingly, dismissed.

Pending applications shall also stand disposed of."

38/ Therefore, in these factual background and the position of law, which is coming on record, the [section 53](#) of the Adhiniyam is required to be quoted as under :

53. Restrictions on land use and land development.- As from the date of publication of the declaration to prepare a town development scheme, no person shall, within the area included in the scheme, institute or change the use of any land or building or carry out any development, 'save in accordance with the development authorized by the Director in accordance with the provisions of this Act prior to the publication of such declaration' 39/ From the bare reading of the Adhiniyam, later part, Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 30 which clearly stipulates that " 'save in accordance with the development authorized by the Director in accordance with the provisions of this Act prior to the publication of such declaration" therefore, considering the objective and purposive reading of [section 53](#) of the Adhiniyam shows that no sooner a development authority publishes its intention to frame and prepare a TDS, the land use of every land covered including private lands, stands freezed and even an individual person cannot change the land use thereby prohibiting development due to freezing of the land use. However, the last highlighted and underlined part of quoted [section 53](#) of the Adhiniyam clearly shows that notwithstanding, the freezing of such land use, development of any land included in proposed scheme is not prohibited, provided it is covered by a sanction granted by the Director, "prior to publishing of such declaration".

Therefore, in view of the aforesaid exception created in second part of [section 53](#) clearly spells out the legislative intent that even in a situation where land use of a land, likely to be included in the scheme to be prepared, is freezed even then such land can be developed if it is covered by sanction of a layout granted by the Director prior to declaration of intention to frame scheme [u/s 50 \(2\)](#). It is also relevant to note the judgment of Hon'ble Supreme Court delivered in the case of Chairman, IDA Vs. Pure Industrial Coke and Chemical Limited reported in (2007) 8 SCC 705, which is cited by counsel for the respondent in support of his contention. For the sake of reference, relevant paragraph nos. 41, 43, 46, 47, 48, 53, 54, 57, 60, 75 and 77 are reproduced as under :

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41. When a draft development plan is prepared, the same is subject to grant of approval and/or modification thereof. We will deal with the matter in some detail a little later but at this stage, we may notice that end use of the land is not frozen until a final sanction plan comes into being. A town planning scheme, as would appear from its definition contained in [Section 2\(4\)](#) of the Act, is prepared only for the purpose of implementation of a development plan. Yet again, we would deal with the question as to whether the same would bring within its sweep the draft development plan or only final development plan a little later, but it may be noticed that once a valid town planning scheme comes into force, indisputably, there may be freezing of land use as also freezing of development and, thus, a total embargo is placed except in such cases where the Director had granted permission. [Section 53](#) of the Act, however, in the event a valid town planning scheme is made, places a total embargo both on land use as also the development. Even the Director is denuded of its power to issue any further permission.

Existing land use, draft development plan and final development plan envisage two-stage exercise. In drafting or finalising a zonal plan, a similar exercise is undertaken. In making a town development scheme, however, the process undertaken is a three- stage one inasmuch as an intention therefor is declared which entails serious consequences and, as noticed hereinbefore, by reason thereof, a total embargo is imposed both on land use as also the development. For the said purpose, a time-limit within which a draft town planning scheme has to be finalised is provided but the same can be subject to modification by the State which ordinarily should be with a view to deal with the same in line with the final development plan.

43. There are two competing interests viz. one, the interest of the State vis-à-vis the general public and, two, to have better living conditions and the right of property of an individual which although is not a fundamental right but is a constitutional and human right

46. Where, however, a scheme comes into force, although it may cause hardship to the individual owners as they may be prevented from making the most profitable use of their rights over property, having regard to the drastic consequences envisaged thereunder, the statute should be considered in such a manner as a result whereof greater hardship is not caused to the citizens than actually contemplated thereby. Whereas an attempt should be made to prevent unplanned and haphazard development but the same would not mean that the court would close its eyes to the blatant illegalities committed by the State and/or the statutory authorities in implementation thereof. Implementation of such land development as also building laws should be in consonance with public welfare Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 32 and convenience. In United States of America zoning ordinances are enacted pursuant to the police power delegated by the State. Although in India the source of such power is not police power but if a zoning classification imposes unreasonable restrictions, it cannot be sustained. The public authority may have general considerations, safety or general welfare in mind, but the same would become irrelevant, as thereby statutory rights of a party cannot be taken away. The courts must make an endeavour to strike a balance between public interest on the one hand and protection of a constitutional right to hold property, on the other.

47. For the aforementioned purpose, an endeavour should be made to find out as to whether the statute takes care of public interest in the matter vis-à-vis the private interest, on the one hand, and the effect of lapse and/or positive inaction on the part of the State and other planning authorities, on the other.

48. The courts cannot also be oblivious of the fact that the owners who are subject to the embargos placed under the statute are deprived of their valuable rightful use of the property for a long time. Although ordinarily when a public authority is asked to perform statutory duties within the time stipulated it is directory in nature but when it involves valuable rights of the citizens and provides for the consequences therefor it would be construed to be mandatory in character.

53. The right to property is now considered to be not only a constitutional right but also a human right.

54. The Declaration of Human and Civic Rights of 26-8-1789 [Ed.: This historic declaration also known as the Declaration of the Rights of Man and the Citizen, 1789 was adopted by the French National Assembly after the French Revolution.] enunciates under [Article 17](#):

"17. Since the right to property is inviolable and sacred, no one may be deprived thereof, unless public necessity, legally ascertained, obviously requires it and just and prior indemnity has been paid".

Further under [Article 17](#) of the Universal Declaration of Human Rights, 1948 dated 10-12-1948, adopted in the United Nations General Assembly Resolution it is stated that: (i) Everyone has the right to own property alone as well as in association with others. (ii) No one shall be arbitrarily deprived of his property."

57. [The Act](#) being regulatory in nature as by reason thereof the right of an owner of property to use and develop stands restricted, requires strict construction. An owner of land ordinarily would be entitled to use or develop the same for any purpose unless there exists certain regulation in a statute or statutory rules. Regulations contained in such statute must be interpreted in such a manner so as to least interfere with the right to property of the owner of such land. Restrictions are made in larger public interest. Such restrictions, indisputably must be reasonable ones. (See [Balram Kumawat v. Union of India](#) [(2003) 7 SCC 628] ; [Krishi Utpadan Mandi Samiti v. Pilibhit Pantnagar Beej Ltd.](#) [(2004) 1 SCC 391] and [Union of India v. West Coast Paper Mills Ltd.](#) [(2004) 2 SCC 747]) The statutory scheme contemplates that a person and owner of land should not ordinarily be deprived from the user thereof by way of reservation or designation.

60. The question has also been addressed by a decision of the Division Bench of this Court in [Pt. Chet Ram Vashist v. Municipal Corpn. of Delhi](#) [(1995) 1 SCC 47] , wherein R.M. Sahai, J., speaking for the Bench opined: (SCC p. 54, para 6) "6. Reserving any site for any street, open space, park, school, etc. in a layout plan is normally a public purpose as it is inherent in such reservation that it shall be used by the public in general. The effect of such reservation is that the owner ceases to be a legal owner of the land in dispute and he holds the land for the benefit of the society or the public in general. It may result in creating an obligation in nature of trust and may preclude the owner from transferring or selling his interest in it. It may be true as held by the High Court that the interest which is left in the owner is a residuary interest which may be nothing more than a right to hold this land in trust for the specific purpose specified by the coloniser in the sanctioned layout plan. But the question is, does it entitle the Corporation to claim that the land so specified should be transferred to the authority free of cost. That is not made out from any provision in the Act or on any principle of law. The Corporation by virtue of the land specified as open space may get a right as a custodian of public interest to manage it in the interest of the society in general. But the right to manage as a local body is not the same thing as to claim transfer of the property to itself. The effect of transfer of the property is that the transferor ceases to be owner of it and the ownership stands transferred to the person in whose favour it is transferred. The resolution of the Committee to transfer land in the colony for park and school was an order for transfer without there being any sanction for the same in law." (See also [Raju S. Jethmalani v. State of Maharashtra](#) [(2005) 11 SCC 222 : (2005) 4 Scale 688])

75. The purpose of declaring the intent under [Section 50\(1\)](#) of the Act is to implement a development plan. [Section 53](#) of the Act freezing any other development is an incidence arising consequent to the purpose, which purpose is to implement a development plan. If the purpose of declaring such an intention is merely to bring into play [Section 53](#), and thereby freeze all development, it would Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 34 amount to exercise of the power of [Section 50\(1\)](#) for a collateral purpose i.e. freezing of development rather than implementation of a development plan. The collateral purpose also will be to indirectly get over the fact that an owner of land pending finalisation of a development plan has all attendant rights of ownership subject to the

restraints under [Section 16](#). If the declaration of intent to formulate a town development scheme is to get over [Section 16](#) and freeze development activities under [Section 53](#), it would amount to exercise of power for a collateral purpose.

78. The essence of planning in the Act is the existence of a development plan. It is a development plan, which under [Section 17](#) will indicate the areas and zones, the users, the open spaces, the institutions and offices, the special purposes, etc. Town planning would be based on the contents of the development plan. It is only when the development plan is in existence, can a town planning scheme be framed. In fact, unless it is known as to what the contents of a possible town planning scheme would be, or alternatively, whether in terms of the development plan such a scheme at all is required, the intention to frame the scheme cannot be notified. 40/ It is also relevant to note that this Court has also found similar issue and is dealt in some other matters also as in Writ Petition no. 3658 of 2026 by order dated 19/06/2017 has observed as under :

" This Court has carefully gone through the order passed by the respondent No.1. The undisputed facts of the case further reveal that prior to declaration of Scheme No. 171, the respondent No.2 got sanctioned the layout plan of his land from the Joint Director, Town & Country Planning Department, Indore. It is also an admitted fact that against the sanction of layout plan of respondent No.2, the Indore Development Authority filed a revision before the State Government though the said revision was not entertained, but the State Government in exercise of its suo-motu powers initiated revisional proceedings and stayed / suspended operation and effect of the sanction granted to respondent No.2 and such stay / suspension order has not been revoked, as reflected from the return. Finally the revision was allowed and the sanction granted in favour of respondent No.2 was cancelled. Thereafter the order passed by the State Government was challenged by filing Writ Petitions and the Writ Petitions were allowed and the order of the State Government was set aside by directing the State Government to afford an opportunity of hearing to respondent No.2 and other persons and to pass a fresh order in accordance with law. The said revision is still pending.

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NEUTRAL CITATION NO. 2026:MPHC-IND:27808 35 It is also an undisputed fact that the sanction / development permission granted to respondent No.2 is still in operation. The undisputed facts also reveal that Scheme No. 171 was declared on 19/6/2009 and the Notification of the final Scheme was published after more than 3 years on 12/10/2012. The Indore Development Authority took no steps to implement the said Scheme even after expiry of 8 years from the date of declaration of the Scheme and 5 years from the final publication of the Scheme.

[Sec. 53](#) of the Adhinyam of 1973 reads as under :

53. Restrictions on land use and land development.- As from the date of publication of the declaration to prepare a town development scheme, no person shall, within the area included in the scheme, institute or change the use of any land or building or carry out any development, save in accordance with the development authorised by the Director in accordance with the provisions of this Act prior to the publication of such declaration.

The aforesaid statutory provision of law makes it very clear that in respect of the land for which development permission has already been granted, cannot be included in a Scheme declared by a Development Authority like the present petitioner. The respondent has brought enough material on record to establish that in more than 100 of cases under various Schemes, the Indore Development Authority itself has excluded such lands for which development permission was already granted. Not only this, the revisional Authority has also excluded various lands from various Schemes on the ground that development permission for such lands was already granted prior to declaration of Schemes. The Indore Development Authority in all the aforesaid cases has accepted the revisional order and the respondent No.2 has filed Annexure R/2-B which is on record in respect of such orders which have been implemented by the Indore Development Authority. There is no denial on behalf of the Indore Development Authority in respect of the aforesaid contention. Not only this, Annexure R/2-C is again a document which includes a list of cases where the Indore Development Authority itself has excluded lands from various Schemes where development permission was granted prior to issuance of Notification about the Development Schemes. Thus, the aforesaid action of the Indore Development Authority establishes that the Indore Development Authority has adopted a pick and choose method and is not having a uniform policy in respect of land owners in whose case the development permissions were already granted prior to Notification of the Schemes under the Adhinyam of 1973. The Revisional Authority, in the light of the fact that the development permission was already granted in case of the petitioner, has simply observed that the land of respondent No.2 should be excluded from the Scheme and a revised plan after Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 36 excluding the land of respondent No.2, be notified.

Another important aspect of the case is that the earlier Scheme ie., Scheme No. 132 was declared as illegal by this Court in a judgment delivered in Writ Petition No. 1455/2007 (supra) and a liberty was granted to declare another Scheme in accordance with law. The Revisional Authority was justified in holding that the land of the petitioner could not have been included in the subsequent Scheme ie., Scheme No. 171. The most shocking aspect of the case is that similar order was passed in case of one Shriram Builders, an identically placed person, excluding the land from Scheme No. 171 on the same ground on the basis of which the impugned order has been passed in case of respondent No.2. The Indore Development Authority has filed an identical Writ Petition in case of M/s. Shriram Builders ie., W.P.No. 3656/2016, however, for the reasons best known to the Indore Development Authority, the petition in respect of Shriram Builders was withdrawn on 3/10/2017.

The Indore Development Authority cannot be permitted to adopt a pick and choose policy and being a statutory body has to follow a uniform policy in all identical cases and once the benefit has been extended to Shriram Builders and the petition against identical order has been withdrawn, there cannot be any justification on the part of the Indore Development Authority in contesting the present matters. However, otherwise also the order passed by the learned Commissioner, which is based upon the statutory provisions of law, does not warrant any interference. The learned Commissioner has rightly arrived at a conclusion that the land of the petitioner cannot be included in the development as the development permission was granted prior to issuance of notifications notifying the Scheme in question. The net result is that the present Writ Petition deserves to be dismissed and is accordingly hereby dismissed. The other connected Writ Petitions are also dismissed.

41/ It is also relevant to note that looking to the prayer of the present petitioner, it is essentially in the nature of writ of certiorari asked under [Article 226](#) of the Constitution of India. For this purpose, it is required to be considered two judgments, i.e. Central Counsel for Research in [Ayurvedic Sciences and another Vs. Bikartan Das](#) and others reported in (2023) 16 SCC 462, of which, Paragraph no. 48 to 63 and 76 to 78 are reproduced as under :

"48. Before we close this matter, we would like to observe something important in the aforesaid context:

NEUTRAL CITATION NO. 2026:MPHC-IND:27808 37 "Two cardinal principles of law governing exercise of extraordinary jurisdiction under [Article 226](#) of the Constitution more particularly when it comes to issue of writ of certiorari."

49. The first cardinal principle of law that governs the exercise of extraordinary jurisdiction under [Article 226](#) of the Constitution, more particularly when it comes to the issue of a writ of certiorari is that in granting such a writ, the High Court does not exercise the powers of Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record. A writ of certiorari, being a high prerogative writ, should not be issued on mere asking.

50. The second cardinal principle of exercise of extraordinary jurisdiction under [Article 226](#) of the Constitution is that in a given case, even if some action or order challenged in the writ petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties. [Article 226](#) of the Constitution grants an extraordinary remedy, which is essentially discretionary, although founded on legal injury. It is perfectly open for the writ court, exercising this flexible power to pass such orders as public interest dictates & equity projects. The legal formulations cannot be enforced divorced from the realities of the fact situation of the case. While administering law, it is to be tempered with equity and if the equitable situation demands after setting right the legal formulations, not to take it to the logical end, the High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal court of appeal which it is not.

51. The essential features of a writ of certiorari, including a brief history, have been very exhaustively explained by B.K. Mukherjea, J. in [T.C. Basappa v. T. Nagappa and Another](#), reported in AIR 1954 SC 440. The Court held that a writ in the nature of certiorari could be issued in 'all appropriate cases and in appropriate manner' so long as the broad and fundamental principles were kept in mind. Those principles were delineated as follows:

"7. ... In granting a writ of 'certiorari', the superior court does not exercise the powers of an appellate tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous, but does not substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record. A writ of certiorari, being a high prerogative writ, should not be issued on mere asking."

Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 38 inferior tribunal

8. The supervision of the superior court exercised through writs of certiorari goes on two points, as has been expressed by Lord Sumner in *King v. Nat Bell Liquors Limited* [(1922) 2 AC 128, 156]. One is the area of inferior jurisdiction and the qualifications and conditions of its exercise; the other is the observance of law in the course of its exercise.

9. Certiorari may lie and is generally granted when a court has acted without or in excess of its jurisdiction."

52. Relying on [T.C. Basappa](#) (supra), the Constitution Bench of this Court in the case of *Hari Vishnu Kamath* (supra), laid down the following propositions as well established:

"24.....24.1. Certiorari will be issued for correcting errors of jurisdiction, as when an inferior court or tribunal acts without jurisdiction or in excess of it, or fails to exercise it.

24.2. Certiorari will also be issued when the court or tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard, or violates the principles of natural justice. (3) The court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the court will not review findings of fact reached by the inferior court or tribunal, even if they be erroneous."

53. This Court explained that a court which has jurisdiction over a subject matter has jurisdiction to decide wrong as well as right, and when the Legislature does not choose to confer a right of appeal against that decision, it would be defeating its purpose and policy if a superior court were to rehear the case on the evidence and substitute its own finding in certiorari.

54. In [Syed Yakoob v. K.S. Radhakrishnan and Others](#), reported in AIR 1964 SC 477, P.B. Gajendragadkar, C.J., speaking for the Constitution Bench, placed the matter beyond any position of doubt by holding that a writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals. The observations of this Court in para 7 are worth taking note of:

"7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under [Art. 226](#) has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals: these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to be heard to the party affected by the order, Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 39 or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the

Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under [Art. 226](#) to issue a writ of certiorari can be legitimately exercised....."

55. In [Surya Dev Rai v. Ram Chandra Rai and Others](#), reported in 2003 (6) SCC 675, a Bench of two Judges held that the certiorari jurisdiction though available, should not be exercised as a matter of course. The High Court would be justified in refusing the writ of certiorari if no failure of justice had been occasioned. In exercising the certiorari jurisdiction, the procedure ordinarily followed by the High Court is to command the inferior court or tribunal to certify its record or proceedings to the High Court for its inspection so as to enable the High Court to determine, whether on the face of the record the inferior court has committed any of the errors as explained by this Court in [Hari Vishnu Kamath v. Ahmad Ishaque and Others](#), AIR 1955 SC 233 occasioning failure of justice.

56. From the aforesaid, it could be said in terms of a jurisdictional error that want of jurisdiction may arise from the nature of the subject matter so that the inferior court or tribunal might not have the authority to enter on the inquiry. It may also arise from the absence of some essential preliminary or jurisdictional fact. Where the jurisdiction of a body depends upon a preliminary finding of fact in a proceeding for a writ of certiorari, the court may Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 40 determine, whether or not that finding of fact is correct. The reason is that by wrongly deciding such a fact, the court or tribunal cannot give itself jurisdiction.

57. In [Anisminic Ltd. v. Foreign Compensation Commission and Another](#), reported in (1969) 2 AC 147, the House of Lords has given a very broad connotation to the concept of 'jurisdictional error'. It has been laid down that a tribunal exceeds jurisdiction not only at the threshold when it enters into an inquiry which it is not entitled to undertake, but it may enter into an enquiry within its jurisdiction in the first instance and then do something which would deprive it of its jurisdiction and render its decision a nullity. In the words of Lord Reid:

"But there are many cases where, although the tribunal had jurisdiction to enter on the enquiry, it has done or failed to do something in the course of the enquiry which is of such a nature that its decision is a nullity. It may have given its decision in bad faith. It may have made a decision which it had no power to make. It may have failed in the course of the enquiry to comply with the requirements of natural justice. It may in perfect good faith have misconstrued the provisions giving it power to act so that it failed to deal with the question remitted to it and decided some question which was not remitted to it. It may have refused to take into account something which it was required to take into account. Or it may have based its decision on some matter which, under the provisions setting it up, it had no right to take into account. I do not intend this list to be exhaustive."

58. So far as the errors of law are concerned, a writ of certiorari could be issued if an error of law is apparent on the face of the record. To attract the writ of certiorari, a mere error of law is not sufficient. It must be one which is manifest or patent on the face of the record. Mere formal or technical errors, even of law, are not sufficient, so as to attract a writ of certiorari. As reminded by this Court time and again, this concept is indefinite and cannot be defined precisely or exhaustively and so it has to be determined judiciously on the facts of each case. The concept, according to this Court in [K.M. Shanmugam v. The S.R.V.S. \(P\) Ltd. and Others](#), reported in AIR 1963 SC 1626, 'is comprised of many imponderables... it is not capable of precise definition, as no objective criterion could be laid down, the apparent nature of the error, to a large extent, being dependent upon the subjective element.' A general test to apply, however, is that no error could be said to be apparent on the face of the record if it is not 'self-evident' or 'manifest'. If it requires an examination or argument to establish it, if it has to be established by a long drawn out process of reasoning, or lengthy or complicated arguments, on points where there may considerably be two opinions, then such an error would Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 41 cease to be an error of law. (See : [Satyanarayan Laxminarayan Hegde and Others v. Mallikarjun Bhavanappa Tirumale](#), reported in AIR 1960 SC 137.)

59. However, in our opinion, such a test should not be applied in a straitjacket formula and may fail because what might be considered by one Judge as an error self-evident, might not be considered so by another Judge.

60. At this stage, it may not be out of place to remind ourselves of the observations of this Court in [Syed Yakoob](#) (supra) on this point, which are as follows:

"Where it is manifest or clear that the conclusion of law recorded by an inferior court or tribunal is based on an obvious misinterpretation of the relevant statutory provision, or something in ignorance of it, or may be even in disregard of it, or is expressly founded on reasons which are wrong in law, the said conclusion can be corrected by a writ of certiorari. Certiorari would also not lie to correct mere errors of fact even though such errors may be apparent on the face of the record. The writ jurisdiction is supervisory and the court exercising it is not to act as an appellate court. It is well settled that the writ court would not re-appreciate the evidence and substitute its own conclusion of fact for that recorded by the adjudicating body, be it a court or a tribunal. A finding of fact, howsoever erroneous, recorded by a court or a tribunal cannot be challenged in proceedings for certiorari on the ground that the relevant and material evidence adduced before the court or the tribunal was insufficient or inadequate to sustain the impugned finding. It is also well settled that adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the tribunal and these points cannot be agitated before the writ court."

61. In the aforesaid context, it will be profitable for us to refer to the decision of this Court in the case of [Indian Overseas Bank v. I.O.B. Staff Canteen Workers' Union and Another](#), reported in AIR 2000 SC 1508. This Court observed as under:

"... The findings of fact recorded by a fact-finding authority duly constituted for the purpose and which ordinarily should be considered to have become final, cannot be disturbed for the mere reason of having been based on materials or evidence not sufficient or credible in the opinion of the writ Court to warrant those findings at any rate, as long as they are based upon such materials which are relevant for the purpose or even on the ground that there is yet another view which can be reasonably and possibly undertaken. ..."

62. However, we may clarify that findings of fact based on 'no evidence' or purely on surmises and conjectures or which are perverse points could be challenged by way of a certiorari as such findings could be regarded as an error of law.

63. Thus, from the various decisions [referred to above](#), we have no hesitation in reaching to the conclusion that a writ of certiorari is a high prerogative writ and should not be issued on mere asking. For the issue of a writ of certiorari, the party concerned has to make out a definite case for the same and is not a matter of course. To put it pithily, certiorari shall issue to correct errors of jurisdiction, that is to say, absence, excess or failure to exercise and also when in the exercise of undoubted jurisdiction, there has been illegality. It shall also issue to correct an error in the decision or determination itself, if it is an error manifest on the face of the proceedings. By its exercise, only a patent error can be corrected but not also a wrong decision. It should be well remembered at the cost of repetition that certiorari is not appellate but only supervisory.

64. A writ of certiorari, being a high prerogative writ, is issued by a superior court in respect of the exercise of judicial or quasi-judicial functions by another authority when the contention is that the exercising authority had no jurisdiction or exceeded the jurisdiction. It cannot be denied that the tribunals or the authorities concerned in this batch of appeals had the jurisdiction to deal with the matter. However, the argument would be that the tribunals had acted arbitrarily and illegally and that they had failed to give proper findings on the facts and circumstances of the case. We may only say that while adjudicating a writ-application for a writ of certiorari, the court is not sitting as a court of appeal against the order of the tribunals to test the legality thereof with a view to reach a different conclusion. If there is any evidence, the court will not examine whether the right conclusion is drawn from it or not. It is a well-established principle of law that a writ of certiorari will not lie where the order or decision of a tribunal or authority is wrong in matter of facts or on merits. (See: King v. Nat Bell Liquors Ltd., (1922) 2 AC 128 (PC)) "

42/ It is further required to be noted that the issues, which are required to be decided by this Court, can be answered as under in nutshell :

(i) Whether the land of the land owner can be released from the scheme if the layout is sanctioned prior to the declaration of the scheme.

a) It is undisputed point that the layout was sanctioned on 18.01.2007 in respect of land of survey no. 511/1 area 2.388 Hectare for Van Awas, whereas the gazette notification U/s. 50(2) for scheme no. 169-

B was published in the newspaper on 25.07.2008 and published in the gazette on 01.08.2008.

(b) It is undisputed position that the master plan came into force on 01.01.2008 where the land use is prescribed in accordance to clause no.

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NEUTRAL CITATION NO. 2026:MPHC-IND:27808 43 6.88 of the master plan as super corridor with its permissible activities, however the land use for industrial purpose is not prescribed in the master plan.

(c) Section 25 of TNCP Act 1973 deals with the land use which is to be in conformity with the development plan: Conformity with development plan After the coming into force of the development plan, the use and development of land shall conform to the provisions of the development plan.

Provided that the Director may at its discretion, permit the continued use of land for the purpose for which it was being used at the time of the coming into operation of the development plan.

Provided further that such permission shall not be granted for a period exceeding seven years from the date of coming into operation of the development plan.

(2) Notwithstanding anything contained in section 172 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) every permission to divert land granted under that section shall be subject to the provisions of this Act.

Thus it is quite clear that any development should be in conformity with development plan and if a person who is having layout sanctioned prior to the coming into force of the master plan then the said land use shall be permitted to be continued on a written permission by the Director, Town & Country Planning not exceeding 7 years from the coming into operation of the development plan. The clause no. 6.3.11 of the master plan is also subservient to the provisions of [Section 25](#) of the Adhiniyam had it been a case that the land owner had completely developed the land in accordance to the layout before the coming into force of the master plan, then definitely the land use before the master plan would have been protected but herein this case admittedly till today no such development activity has been undertaken or completed by the land owners, therefore even the layout sanctioned lapses as being not in conformity with the master plan.

(d) [Section 49](#) prescribes declaration of Town Development Scheme and [Section 50](#) deals with preparation of Town Development Scheme wherein as per [Section 50\(2\)](#) notification declaring intention to prepare scheme is published and thereafter after inviting objections and passing an order on objections U/s. 50(3) of the Adhiniyam, the final notification U/s. 50(7) is published which specified the date which shall come into operation. The land owner's land which is part of the scheme is either taken by way of agreement or by compulsory acquisition as provided U/s. 56 of the Nagar Tatha Gram Nivesh Adhiniyam. This provision of [Section 50](#) have now undergone drastic changes after the coming into force of the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam (Amendment Adhiniyam, 2019). However in the present lis the provisions before the amendment are applicable.

(e) [Section 53](#) Restriction on land use & land development As from the date of publication of the declaration to prepare a town development scheme, no person shall, within the area included in the scheme, institute or change the use of any land or building or carry out any development, save in accordance with the development authorised by the Director in Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 44 accordance with the provisions of this Act prior to the publication of such declaration.

A bare reading of this section will go to show that from the date of publication of declaration to prepare a scheme, no person is authorized to undertake, institute or change the use of any land or building or carry out any development in derogation to the scheme but the only saving prescribed under this section is to such development as is authorized by the Director in accordance to the provisions of this act prior to the declaration of scheme. Meaning. thereby after the declaration of the scheme what is saved is only the development undertaken instituted as authorized by the Director.

[Section 53](#) does not contemplate release of land from the scheme merely on the ground of there being a layout sanctioned prior to the declaration of the scheme but what is saved is the development undertaken on the land in question in accordance to the development authorized by the Director in accordance to the provisions of the act. Thus the land owner's land could not have been released from the scheme only on account of the fact that the layout was sanctioned prior to the declaration of the scheme as [section 53](#) of the Adhiniyam does not contemplate this exigency. [Section 53](#) does not contemplate release of land but contemplates restrictions development of land merely having sanction on paper will not be enough to attract the saving

as contemplated in [section 53](#) of the Act. on actual use & development of the land merely having sanction on paper will not be enough to attract the saving as contemplated in [section 53](#) of the Act.

It is worth mentioning here that though the layout out of the land owner was sanctioned before the coming into force of the master plan. However there is no averment or pleading in the objection filed by the land owner or even in the revision filed before the revisional authority U/s. 51 of the Nagar Tatha Gram Nivesh Adhiniyam that there was no objection filed by the land owner to the proposed master plan, therefore the layout sanctioned proposing a land use contrary to the master plan is nonest in the eyes of law and such development permission cannot be a ground to release the land from the scheme.

A bare perusal of the document submitted by the land owner in reply to the petition clearly goes to show that the development permission was granted for Van Awas, there were no objection filed to the scheme U/s. 50(3) of the Adhiniyam but only the revision was filed by stating that after having knowledge of the inclusion of the in the scheme, the revision was filed. The revision was allowed only on the ground that the layout was sanctioned prior to the scheme and therefore the petitioner was entitled for release of land. As per the panchanama it was found that the land was still used for agricultural purpose there was no development no well or borewell existent earlier also the land was used for agricultural purpose only, hence in such circumstances it can safely be inferred that there is no development, therefore the land being a vacant land cannot get the any benefit U/s. 53 of the Adhiniyam, hence the release of land being bad in law deserves to be set aside.

(f). The release of land as per the revisional order is bad in view of the fact that this amounts to modification of the scheme, whereas after declaration of notification U/s. 50(7) of the Adhiniyam, the scheme Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 45 becomes final and in such circumstances the state government only in exercise of power U/s. 52 can frame or modify or revoke the town development scheme, for the reason specified such direction. The wordings of [section 52](#) categorically prescribes that there has to be a consideration of the state government that it is in the interest of the public so to do and the said order should contain reasons then only a scheme can be modified. Here in this case a bare perusal of the order U/s. 52 categorically goes to establish that it is not in public interest there is no reasoning as it is only a remand order passed in private interest of the land owner dehors [section 52](#) of the Act.

The land owners have pleaded that the IDA by various resolutions have released certain land where development had already taken place in respect of various schemes and also in the present scheme no. 169-A and 169-B also various lands of the land owners were released and on this ground have claimed parity with those land owners. The said contention of the land owner cannot be entertained in view of the fact that the resolution passed by the IDA in respect of various lands in other scheme cannot be treated as a precedent, in view of the fact that the said resolution was passed in the prevailing circumstances which prevailed at that particular point of time in respect of the particular scheme. Furthermore after the final notification U/s. 50(7) the IDA does not have any power to modify or revoke the scheme, it is the state government which is having a power which is to be exercised by a reasoned order in public. Interest.

(h). The land owners have also pleaded that lands of various land owners have been released in the present scheme no. 169-A and 169-B also and the non-release of land of the land owners amounts to hostile discrimination amongst same class of persons, such contentions do not have any force as the lands of such land owners were released as per the order passed U/s. 50(4) of the Adhiniyam wherein the committee categorically observed that there were constructions undertaken as per the sanctioned layout and the development activity were either going on or were completed, however in the case of land owners to be present lis, the committee have categorically found that neither the land owner had produced any kind of document to show that there was a subsisting layout sanctioned in their favour nor the development was or had been undertaken in accordance to such layout, therefore there being nothing on record to substantiate their claims were rejected U/s. 50(4), furthermore some of the land owners to the present lis (M/s. Aarnath and Coreland) had not even filed objections but straight away had preferred revision before the revisional authority.

(i). The land owners have pleaded that since last 10 years there is no development in the scheme land, whereas the development is quite evident from the various charts and maps which have been filed along with affidavit dated 29.03.2025 and also additional affidavit dated 21.04.2025. Furthermore it is submitted that the super corridor comprises of scheme no. 139 which is 100% complete, the scheme no. 151 which majority work is complete and scheme no. 169-A and 169-B is also virtually complete to a great extent which is quite evident from Annexure P-26 of the additional affidavit. Therefore the scheme being incomplete is a fallacious statement made by the land owner. It is worth mentioning here Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 46 that in view of the dictum of law laid down in the case of Burhani Grah Nirman and other judgments, the Hon'ble Supreme Court has categorically stated that the schemes of such magnitude take 10 years for completion and this itself is not a ground to quash the scheme.

This Hon'ble Court in the case of Gauradevi V/s Indore Development Authority and others WP No. 5827/2021 by its order dated 23.06.2023 in paragraph no. 9 has given a finding of fact that a large area of land i.e. 90% of the total acquisition owned by the land owners had agreed to surrender the land by way of agreement and accepted developed plot in the said scheme. It is only the petitioner therein and some land owners who did not agree to execute agreement from IDA and for only 10% of the land owners the entire work of development in public interest cannot be put to a stands stall therefore it is quite clear that the scheme of such magnitude cannot be stopped only on the basis of objection of such small number of land owners.

(k). That the land owners have also relied on various judgments passed by this Hon'ble Court thereby releasing the lands of the land owners in peculiar circumstances however in view of the judgment passed by the Hon'ble Supreme Court in Burhani Grah Nirman and also looking to the aforesaid judgment itself, it is quite clear that the judgment so relied upon by the land owners cannot be said to be of such precedential value so that any benefit can be given in the matter of release of land of the land owners.

43/ Now, in addition to that, the judgments cited by the parties, more particularly the respondents, are helpful to them in every manner. It is required to be noted for ready reference the crux of the judgment cited in Writ Petition no. 9299 of 2014 are reproduced as under :

(a). Central Coal fields V/s State of MP and others 1995(2) SCC Page No. 11 Para no. 7 & 8:

Wherein the Hon'ble Supreme Court has said that [section 25](#) postulates that after the coming into force of the development plan, the use and development of land shall confirm to the provisions of the development plan. In other words after the development plan has come into force the development of land shall only be in conformity with the development plan, any construction if has been made prior to the coming into force of the development plan then it does not come within the prohibition of [section 26](#), but thereafter [section 26](#) expressly prohibits construction except under planned development of land with prior permission. Herein this case there is no development prior to the coming into force of the master

plan, therefore now no development can be undertaken on the basis of development permission granted prior to coming into force of master plan, the land owner cannot claim benefit of release of land on the basis of such permission which has already stood expired.

(b) Indore Development Authority V/s Burhani Grah Nirman Sahakari Sanstha Maryadit 2023 SCC Online SC 232 Para 53, 67:

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NEUTRAL CITATION NO. 2026:MPHC-IND:27808 47 The Hon'ble Supreme Court has said that the word 'implementation' can never be construed to mean the scheme should be fulfilled or carried out within a period of three years. The Hon'ble Supreme Court has said that if steps are taken by the authorities towards the implementation of the scheme then, the word 'implementation' shall not be construed to mean that the period of three years is the period prescribed for the completion of the scheme. The Hon'ble Supreme Court has further stated that the scheme of much larger construction and development may be prepared which may even take ten years to complete.

This was the case of construction of the Ring Road and other infrastructural development. The Hon'ble Supreme Court in para 67 also said that the release of land of other person with an object of undue favour to those person whose land have been released is not a ground to claim release of land on the ground of parity. The Hon'ble Court had observed that it is for the authority to see that the release of land does not have any effect on the integrity of the scheme, whereas here in this case the release of land will definitely have a severe impact on the integrity of the scheme.

(c) Kalicharan & others V/s State of UP and others 2024 SCC Online SC 3472, para 38, 41:

The Hon'ble Supreme Court in para no. 38 and 41 have categorically held that the imposition of urgency clause for acquisition of Yamuna Expressway, the application for urgency clause was justified and as majority of land owners have not objected, therefore there cannot be said to be any kind of illegality in the acquisition of land. Here also only a handful land owners have objected.

(d) Ikisvi Sadi Grah Nirman Samiti V/s State of MP & others WA No. 69/2020, Para 19, 22, 26 and 27:

Wherein the Division Bench of this Hon'ble Court has held that the provisions of [section 56](#) are directly and not mandatory, there is no outer limit of three years to complete the acquisition by way of agreement U/s. 56 of the Adhiniyam.

(e) Gauradevi V/s State of MP & others WP No. 5827/21, Para 9:

Wherein the Hon'ble Court was considering the challenge in respect of scheme no. 169-A held that 90% of the land owners had already agreed to surrender their land and for 10% of the land owners entire work of development in the public interest cannot be set to a stand stall.

(1) Bhonduramaswami and others V/s Bangalore Development Authority & others 2010(7) SCC Page 129, Para 103 & 140:

The Hon'ble Supreme Court had said that the mere fact that there were modification from time to time or one of the land originally proposed were thereafter omitted will not in any way affect the validity of the scheme, the fact that there were changes in extent does not make the scheme vague or uncertain.

The Hon'ble Supreme Court has further said that the issue of discrimination also do not come into play if some order is in favour of some person then it cannot be a ground for issuing writ in favour of others as other cannot seek deletion of their land merely as others land were released, there has to be a justifiable cause for release of land from acquisition.

(g) Raipur Development Authority V/s Anupam Sahakari Grah Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 48 Nirman Samiti and others 2000(4) SCC Page 357 para 16 and 17:

The Hon'ble Supreme Court has categorically held that whenever there are two possible interpretation then one that sub serve to the intent of the legislature is to be accepted, the object of the aforesaid act is of planned development thus the interpretation which upholds the scheme of the act should be followed. Therefore the provisions of [section 53](#) are to be interpreted in such a manner that the intent of the legislature and the purpose of the act is fulfilled.

(h) Anand Buttons Ltd. V/s State of Haryana and others, 2005(9) SCC page 164:

The Hon'ble Supreme Court has categorically held that for carrying out the plan development, the development authority is the best judge as to which land can be exempted from acquisition without jeopardizing the development scheme and it is not possible for the court to sit in appeal over the exercise of such satisfaction by the authority vested with the task of implementing the development plan. (para 11).

[Article 14](#) does not mandate negative equality as two wrong do not make one right but would be perpetuating another wrong (Para 12).

(1) Mumbai International Airport V/s Regency Convention Centre and others, 2010(7) SCC page 417:

Every judgment must be governed by particular facts of the case that a looking difference in fact or additional facts may make a lot of difference in the precedential value of the decision (Para 21).

(j) State of Orissa V/s Titaghur Paper Mill Company Ltd. and another, AIR 1985 SC page 1293:

Dictionary Meaning can only be relied if the statute do not contain the meaning of the particular word, further the dictionary meaning contain different meanings of a word and the courts are required to select, the particular meaning which would be relevant to the context of the act. (Para 89, 127) 44/ Therefore, in view of the above mentioned discussions, I am of the opinion that neither the petitioner cannot resort to [section 25](#) of the Adhiniyam, 1973 as that contention is not helpful to the present petitioner. In view of the above discussion and the settled position of law, I am of the opinion that [section 53](#) is squarely applicable to the facts of the present case, more particularly the similar view is taken by this Court while deciding the Writ Petition no. 7871 of 2013, therefore, in the present case, on this count as well as on merit also, I am of the opinion that no reason is made out for interference by issuing writ of certiorari by exercising the powers under [Article 226](#) of the Constitution of India.

45/ It is also relevant to refer to the judgment delivered by Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 49 Hon'ble Supreme Court in the case of [Surya Dev Rai Vs. Ram](#)

[Chander Rai and others](#) reported in 2003 (6) SCC 675 for the scope of exercise powers under [Article 226](#) of the Constitution of India. For the sake of reference, paragraphs no.6 to 10 are reproduced as under :

"Writ of Certiorari

6. According to Corpus Juris Secundum (Vol.14, page 121) certiorari is a writ issued from a superior court to an inferior court or tribunal commanding the latter to send up the record of a particular case.

7. H.W.R. Wade & C.F. Forsyth define certiorari in these words :-

"Certiorari is used to bring up into the High Court the decision of some inferior tribunal or authority in order that it may be investigated. If the decision does not pass the test, it is quashed - that is to say, it is declared completely invalid, so that no one need respect it.

The underlying policy is that all inferior courts and authorities have only limited jurisdiction or powers and must be kept within their legal bounds. This is the concern of the Crown, for the sake of orderly administration of justice, but it is a private complaint which sets the Crown in motion."(Administrative Law, Eighth Edition, page 591).

8. The learned authors go on to add that problem arose on exercising control over justices of the peace, both in their judicial and their administrative functions as also the problem of controlling the special statutory body which was addressed to by the Court of King's Bench. "The most useful instruments which the Court found ready to hand were the prerogative writs. But not unnaturally the control exercised was strictly legal, and no longer political. Certiorari would issue to call up the records of justices of the peace and commissioners for examination in the King's Bench and for quashing if any legal defect was found. At first there was much quashing for defects of form on the record, i.e. for error on the face. Later, as the doctrine of ultra vires developed, that became the dominant principle of control" (page 592).

9. The nature and scope of the writ of certiorari and when can it issue was beautifully set out in a concise passage, quoted hereafter, by Lord Chancellor Viscount Simon in Ryots of Garabandho and other villages Vs. Zamindar of Parlakimedi and Anr. - AIR 1943 PC 164.

"The ancient writ of certiorari in England is an original writ which may issue out of a superior Court requiring that the record of the proceedings in some cause or matter pending before an inferior Court should be transmitted into the superior Court to be there dealt with. The writ is so named because, in its original Latin form, it required that the King should "be certified" of the proceedings to be investigated, and the object is to secure by the exercise of the authority of a superior Court, that the jurisdiction of the inferior tribunal should be properly exercised. This writ does not issue to correct purely executive acts, but, on the other hand, its application is not narrowly limited to inferior "Courts" in the strictest sense.

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NEUTRAL CITATION NO. 2026:MPHC-IND:27808 50 Broadly speaking, it may be said that if the act done by the inferior body is a judicial act, as distinguished from being a ministerial act, certiorari will lie. The remedy, in point of principle, is derived from the superintending authority which the Sovereign's Superior Courts, and in particular the Court of King's Bench, possess and exercise over inferior jurisdictions. This principle has been transplanted to other parts of the King's dominions, and operates, within certain limits, in British India."

10. [Article 226](#) of the Constitution of India preserves to the High Court power to issue writ of certiorari amongst others. The principles on which the writ of certiorari is issued are well-settled. It would suffice for our purpose to quote from the 7-Judge Bench decision of this Court in [Hari Vishnu Kamath Vs. Ahmad Ishaque and Ors.](#) - (1955) 1 SCR 1104. The four propositions laid down therein were summarized by the Constitution Bench in [The Custodian of Evacuee Property Bangalore Vs. Khan Saheb Abdul Shukoor](#) etc. - (1961) 3 SCR 855 as under :-

".....the High Court was not justified in looking into the order of December 2, 1952, as an appellate court, though it would be justified in scrutinizing that order as if it was brought before it under [Article 226](#) of the Constitution for issue of a writ of certiorari. The limit of the jurisdiction of the High Court in issuing writs of certiorari was considered by this Court in [Hari Vishnu Kamath Vs. Ahmad Ishaque 1955-1 S](#) 1104 : ((s) AIR 1955 SC 233) and the following four propositions were laid down :-

"(1) Certiorari will be issued for correcting errors of jurisdiction; (2) Certiorari will also be issued when the Court or Tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard, or violates the principles of natural justice;

(3) The court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the court will not review findings of fact reached by the inferior court or tribunal, even if they be erroneous. (4) An error in the decision or determination itself may also be amenable to a writ of certiorari if it is a manifest error apparent on the face of the proceedings, e.g., when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by certiorari but not a mere wrong decision."

46/ Whereby the Hon'ble Supreme Court has discussed the earlier law laid down and has come to the conclusion that writ of certiorari is required to be considered in given case, however, there cannot a straitjacket formula, but considering the ratio of the above judgment, the present case does not warrant any interference under [Article 226](#) of the Constitution of India by issuing writ of certiorari. One Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 51 more recent judgment of Hon'ble Supreme Court delivered in Civil Appeal no. 13801/2025 [Shri Digant Vs. M/s. P.D.T. Trading C. and others,] of which paragraph nos. 22 and 23 are relevant, which indicates about the restrictions of the interference under [Article 226](#) of the Constitution of India for the consideration of writ of certiorari

22. The scope of High Court's jurisdiction under Articles 226/227 fell for consideration before a three-Judge Bench of this Court in [Radhey Shyam & another v. Chhabhi Nath & Ors.](#) This Court held that judicial orders of civil courts are not amenable to a writ of certiorari under [Article 226](#), though they may be questioned in the supervisory jurisdiction of the High Court under [Article 227](#) of the Constitution. The power under [Article 227](#) is intended to be used sparingly and only in appropriate cases for the purpose of keeping the subordinate courts and tribunals within the bounds of their authority and not for correcting mere errors. The power may be exercised in cases occasioning grave injustice or failure of justice such as when (i) the court or

tribunal has assumed a jurisdiction which it does not have, (ii) has failed to exercise a jurisdiction which it does have, such failure occasioning a failure of justice, and (iii) the jurisdiction though available is being exercised in a manner which tantamounts to overstepping the limits of jurisdiction.

23. In the case on hand, the appellate court had considered in detail the issue as to whether the trial court was justified in proceeding with the case, without further notice to the defendants, after submission of pursis (Exh.42) by defendants' counsel, claiming no instructions. After a threadbare analysis and taking into consideration the surrounding circumstances, the appellate court held that the trial court committed no wrong in proceeding with the matter. The appellate court noticed that the advocate representing the defendants had claimed no instructions but not sought withdrawal of his Vakalatnama and the matter thereafter remained pending for over three months till it was decided in March 2015. In between no effort was made by the defendants to engage another lawyer. Moreover, the defendants did not come up with a case that their lawyer's notice was not served on them therefore, they could not engage another counsel. Besides that, the record also indicated that the intention of the defendants was to delay the proceedings because earlier also the suit had proceeded ex parte against them though, later, those orders were recalled. Therefore, in our view, once the appellate court took into consideration all relevant aspects including the fact that pursis (Exh.42) did not seek withdrawal of the Vakalatnama, and withdrawal was not even permitted, there was no such jurisdictional error which warranted exercise of powers under [Article 227](#) of the Constitution of India. The High Court without any justification went on to consider the procedure prescribed for withdrawal of Vakalatnama when neither withdrawal of Vakalatnama was permitted by the Trial Court nor the pursis prayed for its withdrawal. In such circumstances, the entire exercise of the High Court was misconceived. More so, when the view taken by the appellate court that defendant cannot Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25 NEUTRAL CITATION NO. 2026:MPHC-IND:27808 52 take advantage of his own wrong was a plausible view based on materials available on record. Hence, in our view, appellate court's order was not amenable to interference in exercise of jurisdiction under Articles 226/227 of the Constitution of India. The High Court clearly exceeded its jurisdiction under [Article 227](#) of the Constitution in interfering with a well reasoned order of the appellate court.

47/ Considering the settled position of law and facts of the case involved in all the present petition, I found no valid reason for interference with the order passed by the concerned Authority of the Government of Madhya Pradesh while considering the revision under [section 51](#) of the Act, therefore, no case is made out by exercising the powers contemplated under [Article 226](#) of the Constitution of India, even for the sake of argument, though the petition is not filed under [Article 227](#) of the Constitution of India, for that also, no case is made out to exercise my power under [Article 227](#) of the Constitution of India as no arbitrariness, perversity or illegality is found in the impugned order, therefore, all the petitions are required to be dismissed. Accordingly, all the present petitions are dismissed.

48/ Let the necessary procedure may be followed as all the matters are pending since the year 2013 and 2014 and in view of the earlier direction given in earlier Writ Petition no. 7871/2013, let the IDA do needful to release the lands in question from the Town Planning Scheme as early as possible and implement the order accordingly, preferably within a period of four weeks from today.

49/ The signed order be kept in the file of W.P. Nos. 9299 of 2014 and a copy thereof be kept in the file of connected Writ Petitions.

CC as per rules.

(SANDEEP N. BHATT) JUDGE amol Signature Not Verified Signed by: AMOL NIVRUTTIRAO MAHANAG Signing time: 01-10-2026 17:01:25