



Andreza

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 1215 OF 2025 (FILING)**

1. Mr Douglas Lawrence Sequeira, Son of Lawrence Sequeira, Gauncar of Comunidade of Tivim, ID No:43 (3-D-001), age 52 years, residing at 1465, Voilo Vaddo, Tivim, North Goa, Goa-403 502
2. Mr. Godfrey Victor D'Lima, Son of Eleterio F. D'Lima, Gauncar of Comunidade of Tivim, ID No:22(4-G-004), 47 years, residing at House No.1064, Tivim, Bardez-Goa. 403 502.
3. Mr. Jose Antonio De Mello, Son of Minguel Caridade De Mello Gauncar of Comunidade of Tivim, ID No:600(4-J-056), age 65 years, residing at Daulat Vaddo, Cansa Tivim, Bardez Goa 403 502
4. Mr. Lawrence Francisco Ferrao, Son of Maurice V Ferrao Gauncar of Comunidade of Tivim, ID No:479 (4-L-019) 67 years, residing at Dulat Waddo, Cansa, Bardez, Goa, Tivim, Goa — 403 502
5. Mr. Antonio José André Fonseca, Son of Pedro Nolasco Fonseca, Gauncar of Comunidade of Tivim, ID No: 3-A-010, age 65 years, residing at H.no 1361, Chinachant, Tivim, Bardez, Goa — 403 502
6. Mr. Adrian Cyril D'Souza, Son of Cyrilo Jose Isidoro D'Souza, Gauncar of Comunidade of Tivim, ID No:45 (4-A-032), 62 years, residing at H. No 359/1 St Anns Colony, St Anns High School, Tivim, Bardez Goa — 403 502.
7. Mr. Assumption Anthony D'Souza, (Assumcao Antonio D'Souza), Son of Dominic D'Souza (Domingos G. D'Souza), Gauncar of Comunidade of Tivim, ID No: 842 (4-A-057), age 66 years, residing at H. No 359/2 St Annes

Colony, Tivim, Bardez, Goa 403 502

8. Mr. Matias Lobo, Son of George Lobo, Gauncar of Comunidade of Tivim, ID No: 824(4-M-046), age 52 years, residing at H. No 160, Lobo waddo, Querem, Tivim, Bardez Goa -403 502

... Petitioners

V e r s u s

1. Maharashtra Academy of Engineering and Educational Research's MIT Group of Institutions, Pune, having office at Survey No. 124, Pind Road, Kothrud, Pune.

2. State of Goa, Through Chief Secretary, Secretariat, Porvorim, Bardez Goa-403521.

3. Secretary (Revenue), Government of Goa, Secretariat, Porvorim, Bardez Goa. 403 521.

4. Secretary (Education), Government of Goa, Secretariat, Porvorim, Bardez-Goa-403 521.

5. The Director of Higher Education, Directorate of Higher Education, Government of Goa, New NCERT Building, Altinho, Porvorim, Bardez-Goa. 403 521.

6. The Administrator of Comunidades, (North Zone), Altinho, Mapusa - Goa. 403 507.

7. Comunidade of Tivim, Through its Attorney, Church Hall, Tivim, Bardez-Goa. 403 502

8. Shri Miguel Caetano Sequeira, President of the Comunidade of Tivim.,

9. Shri James D'Souza, Attorney of the Comunidade of Tivim,

10. Shri Joselan Pereira, Treasurer of the Comunidade of Tivim,

11. Shri Pranav Parsekar, Escrivao (Clerk), Comunidade of Tivim,

Respondent Nos. 8 to 11 to be served through

The Administrator of Comunidades, (North Zone), Mapusa, Bardez-Goa. 403 507

12. Goa Investment, Promotion & Facilitation Board (Goa-IPB), Through its CEO, Having office at 1st Floor, Spaces Building, EDC Patto Plaza, Panaji Goa, 403 001

13. Secretary (Town & Country Planning), Government of Goa, Secretariat, Porvorim, Bardez-Goa. 403 521.

14. The Chief Town Planner, Town & Country Planning Department, Government of Goa, Patto, Panaji-Goa 403 001.

15. The Dy. Town Planner, Town & Country Planning Department, Government of Goa, Government Complex, Mapusa, Bardez-Goa. 403 507

... Respondents

Mr C. A. Ferreira, Senior Advocate with Mr Dhaval D. Zaveri and Mr Sujay Kamulkar, Advocates for the Petitioners.

Mr Ravi Bhardwaj, Advocate with Ms. Vrushali Maindad, Ms Gayatri Kulkarni, Mr Shashikant Joshi, Ms Swapna Joshi and Mr Mayuresh Padhye, Advocates for Respondent No.1.

Mr Devidas J. Pangam, Advocate General with Mr Neehal Vernekar, Additional Government Advocate for Respondents No.2 to 6 and 12 to 15.

Mr Parag Rao, Advocate with Ms Sowmya Drago, Advocates for Respondent No.7.

Mr Yogesh Nadkarni, Advocate with Mr Kunal Nadkarni and Ms Simran Khadilkar, Advocates for Respondents No.8 to 10.

Ms Vilisha Shivolkar, Advocate for Respondent No.11.

**CORAM: BHARATI DANGRE &
ASHISH S. CHAVAN, JJ.**

**RESERVED ON : 30th SEPTEMBER, 2025
PRONOUNCED ON : 16th OCTOBER, 2025**

JUDGMENT (*Per Bharati Dangre, J.*)

1. The Petition filed by the Gaunkares of Comunidade of Tivim, Bardez, Goa, raise questions of significant importance involving the consequences affecting Comunidades across Goa in relation to the permissibility of grant of its land without auction under Article 334 A of the Code of Comunidade, 1961.

2. We have heard learned Senior Counsel Mr. Carlos Ferreira for the Petitioner with Mr. Dhaval Zaveri. The Petition and the claim therein is contested by the Respondents through Mr. Devidas Pangam, the learned Advocate General representing Respondent nos. 2 to 6 and 12 to 15, whereas the Respondent no. 1, the allottee of the land, Maharashtra Academy of Engineering and Educational Research's MIT Group of Institutions, Pune, (MAEER MIT Group of Institutions, Pune) is represented by Mr. Ravi Bhardwaj with Ms. Vrushali Maindad. The Comunidade of Tivim is represented before us by Mr. Parag Rao, whereas Respondent nos. 8 to 10 are represented by Mr. Yogesh Nadkarni, along with Ms. Simran Khadilkar and Respondent no. 11, the Escrivao (Clerk) of Comunidade of Tivim is represented by Ms. Vilisha Shivolkar.

On the pleadings being completed, we have heard the Petition finally by consent of the parties, hence 'Rule'. Rule is made returnable forthwith.

3. Before we analyse the counter submission in the wake of the questions for determination raised by Mr. Ferreira in the Petition, we deem it appropriate to refer to the factual background involved in the wake of which the questions falling for our determination deserve consideration.

The Petitioners are Gaunkares of Comunidade of Tivim and they claim to be adversely affected by the illegal grant of land of an area of 2,00,000.00 (Two lakhs) square metres bearing survey no. 88/1 (P) of Plot 'B' of Tivim Village, belonging to the Comunidade i.e. Respondent no. 7. Being the components of the Comunidade, the Petitioners allege that the decision to grant land in favour of Respondent no. 1 is contrary to law and secondly it is to the detriment to the components of the Comunidade, which include the Petitioners and that is how the locus of the Petitioners in filing the present Petition is justified.

4. The Goa Private Universities Act, 2020, was enacted by the State Legislature to provide for establishment and incorporation of private institutions in the State of Goa for imparting quality and industry relevant higher education and to regulate their functions. The Act set

out the conditions for establishment of a University along with the process to be adopted for consideration of such proposal to permit establishment of a University/an institution/college.

Pursuant to the said enactment being brought in force, MAEER MIT Group of Institutions, Pune, (Respondent no. 1) through its Managing Trustee and Executive President, preferred an application to the Directorate of Higher Education in form of 'Application for establishing a private university, under Goa Self Finance Universities (Establishment and Regulations), Act, 2020', highlighting that the MAEER MIT Group of Institutions, Pune, a registered trust established in the year 1983 has long and outstanding experience in the field of professional education, particularly in the field of engineering, medical sciences and allied research activities.

Being committed to the cause i.e. to create and develop a state of the art facility in the field of professional education and to meet the challenges of the most advanced scientific and innovative technological developments, the management submitted its proposal for securing permission to start a private university in Goa, with an object to improve upon the quality of education in a big way and achieve excellence in the area of education and assure the Government of Goa that it shall certainly fulfil and comply with the necessary conditions

and every requirement for 'establishment of private university' in the State of Goa and develop it as a world class university in the State.

The application was accompanied with the highlight of the activities undertaken by the Society in the field of education with the expectation of issuance of Letter of Intent from the Government. Around the same time, the Respondent no. 1 also filed an application before the Investment Promotion Board (IPB) seeking In-Principle approval under the Investment Promotion Act, 2014 and annexed an elaborate scheme of the proposal for the establishment of the proposed University.

The proposal of Respondent no. 1 was placed before the Committee constituted under Section 5 of the Goa Private Universities Act, 2020, and in the meeting held on 01.02.2021 at the Secretariat, under the Chairmanship of the Hon'ble Chief Minister of the State in the presence of the Principal Secretary (Finance), Secretary (Higher Education) and other stakeholders, the proposal of MAEER for setting up of Dr. Vishwanath D. Karad, World Peace University, Goa, was taken up for discussion in the background of its credentials as having few University campuses in India including one in Pune.

The curriculum to be offered by the new University was examined and it was also recorded that the proposed university had

identified about 60 acres of land in Bicholim Taluka, for establishing the University.

The proposal of Respondent no. 1, at the end of the presentations and after detailed deliberations was approved subject to the acquiring of land in the name of MIT Group of Institutions.

This was followed by Letter of Intent being issued in favour of Respondent no. 1 under Section 5 of the Act of 2020, with a direction to comply with Section 6 of the Act which include acquisition of the land.

5. The Respondent No.1-MAEER MIT Group of Institutions, Pune, preferred an application to His Excellency, Governor of Goa, State of Goa, on 01.12.2023, in its capacity as a Public Charitable Trust registered under the provisions of the Maharashtra Public Trust Act, as it desired to obtain land for establishing an institution and it zeroed down upon an uncultivated and unused land bearing survey no. 88/1 (Part B) situated at Village of Tivim, belonging to the Comunidade of Tivim admeasuring 2,00,000 square metre.

The application was accompanied with the required documents, with a request being made to His Excellency to sanction the grant of Lease under Article 334 A of the Code of Comunidades without formalities of auction.

The Comunidade informed Respondent no. 1 to file an application to the Government under the Code of Comunidade for grant of land. Accordingly, on 01.12.2023, Respondent no. 1 filed an application to the Government for grant of subject land under Article 334 A of the Code of Comunidade and also filed an application seeking extension of validity period for Letter of Intent (LOI) and the Government extended the validity period up to 22.03.2026.

According to the Petition, on 05.01.2024, the Director (Higher Education) accorded its No Objection to establish the private University on the land proposed to be acquired by it on lease from Comunidade. Even a No Objection was accorded by the office of the Senior Town Planner as regards the grant of lease in respect of property bearing survey no. 88/1 (Part) Plot B of Village Tivim admeasuring 2,00,000.00 square metres, Taluka Bardez.

6. It is the case of the Petitioners that the whole process was hushed up to favour the Respondent no. 1 and strong cloud is raised on the extraordinary General Body meeting of the Comunidade held on 25.02.2024, as it is the claim staked by the Respondent-authorities that on that day, it was unanimously resolved to grant the land in favour of Respondent No. 1 subject to payment of security deposit of Rs.5 Crores, annual rent of Rs. 25,00,000/- subject to increase by 5% and grant of

50% fee concession to the children of Comunidade constituents along with the scholarship schemes.

It is with regards to these Minutes of the Meeting, Mr. Ferreira has advanced his arguments on behalf of the Petitioners and it is his case that the Minutes of the Meeting are manipulated and this is his preliminary objection about the projection that it was unanimously resolved to grant the Comunidade land in favour of Respondent no. 1 and we will be dealing with his arguments in detail with the reference to the documents on which he has placed reliance.

Another argument of Mr. Ferreira is about the applicability of the rates, as it is his specific contention that the Department of Revenue in Goa determining the true market value in exercise of powers conferred under sub-rule (3) of Rule 4 of Goa Stamp (Determination of True Market Value of Property) Rules, 2003 had issued a statement of minimal land rates for the year 2020-2021, which were to come into effect from 17.03.2020 and as far as Tivim is concerned from Bardez Taluka, it is his contention that the proposed rate per square metre was fixed at Rs. 3600/- whereas by relying upon the rate fixed on 13.09.2024, he would submit that as far as Tivim is concerned, the rate was revised to Rs. 10,000/- per square metre and when the land is allotted and the rates were revised, these revised rates ought to have been made applicable.

According to Mr. Ferreira, the Special Committee meeting held in the Chamber of the Hon'ble Revenue Minister on 13.06.2024 ought to have considered the new rates when it decided to take up the case of the Respondent no. 1 for grant of Comunidade land without auction. It is his specific contention that the payment of rentals agreed at Rs. 12.50 per square metre i.e. Rs. 2,00,000/- per annum taxes and other charges was a lower estimation of the property causing huge loss to the Comunidade.

Mr. Ferreira would refer to his pleadings in the Petition and in specific Paragraph 10, which make a reference to the complaint filed with Colvale Police Station on 04.12.2024 after obtaining the necessary information under the Right to Information Act, 2005 (RTI Act), which resulted in invocation of offences under Sections 420, 468 and 474 read with Section 34 of the Indian Penal Code (IPC) and he would submit that the Petitioners would pursue their remedy in appropriate legal forum as far as the complaint is concerned but, according to him, the decision taken by the Comunidade to allot the land in favour of Respondent no. 1 is a fraud and he would also submit that if the application of Respondent no. 1 is perused, which the Petitioner has obtained from the office of the Administrator of Comunidade under RTI Act, he would notice that there was no representation of Respondent no. 1 for grant of land for any concessional or special rate,

and therefore, there is no reason why the same should be granted at a concessional rate.

7. The learned Senior Counsel would place reliance upon the decision of the Division Bench in case of **Comunidade of Chicalim & anr. vs. The Administrator of Comunidades of South Zone, Margao, Goa, & anr.**¹, which has pronounced upon the various provisions of the Code of Comunidade and has taken note of the Comunidade as an institution peculiar to the Territory of Goa by referring to it as an Association of villagers, who establish a Comunidade of a village and their lineal descendants being styled as 'Jonoeiros' who have share in the land as well as the income from the property.

He would highlight the relevant observations of the Division Bench about the nature of Comunidade, which essentially deals with the rights in all over the lands in form of an Association unincorporated but authorized to regulate its functions with the necessity of balancing the budget and a contribution by one to other. Highlighting it as a body working for common benefit, it is the submission of Mr. Ferreira that if a decision is taken by Comunidade it must necessarily be in the interest of its components and in this case, if a decision is taken to their detriment, the Petitioners definitely are entitled to raise an alarm.

¹ Writ Petition No. 98 of 1996 decided on 11.04.1996.

Another decision on which Mr. Ferreira would place reliance is case **Smt. Basilia M. Gomes & ors. vs. M/s. Zuari Agro Chemicals Ltd. & anr.**,² which deals with the grant of Aforamento by Comunidade as contemplated under Article 324 of the Code of Comunidade.

Referring to the observations in the Judgment about the effect of such grant, it is the submission of Mr. Ferreira that there is no provision for reversion of land and in fact on passage of time, the land will vest in the allottee and therefore it is very much necessary to be extremely cautious when the land belonging to the Comunidade is allotted.

Inviting our attention to the scheme contemplated under the Code of Comunidade, it is his submission that the Code contemplate initial possession of land to be handed over to the allottee to be followed by the requisite compliance, which gets converted into definitive possession which is forever. It is his specific submission that there is no concept of release in the Code and land can be disposed of by auction and to acquire definitive possession, there are various provisions like payment of ground rent, which would convert the allotment into a title of ownership.

² Second Appeal No. 118 of 2003 decided on 05.08.2014

8. In the backdrop of the facts pleaded in the Petition, Mr. Ferreira has claimed the following grounds for consideration:

- (a) When the Code permits grant of a land without auction inter alia for an educational institution pursuant to a Scheme framed by the Government and requiring a Certificate of No Objection from the Government, whether the Comunidade/Respondent No.7 and the Government could consider the grant of the land of the Comunidade in terms of Article 334-A of the Code, to Respondent No.1, an educational institution, admittedly in the absence of a Scheme framed by the Government and the Certificate of No Objection as required under Article 334-A of the Code?
- (b) Whether the Comunidade/Respondent No.7, the Special Committee or the State Government could have placed reliance on provisions of The Goa Private Universities Act, 2020 to substitute such Certificate of No Objection required under Article 334-A of the Code?
- (c) In the absence of any document of No Objection under Art. 334-A of the Code, produced by Respondent No.1, whether the Comunidade or the Special Committee or the Government could have placed reliance merely on Section 6 of The Goa Private Universities Act, 2020?
- (d) Whether a “Letter of Intent” if any, under The Goa Private Universities Act, 2020 could have been read as a No Objection required under Article 334-A of the Code?”

9. Mr. Ferreira has also focused his attention on the Code of Comunidade highlighting its power and in particular Article 30 as well as Article 31, which prescribe that the Comunidade is empowered to deliberate upon various subjects including (f) emphyteusis, sale or exchange of land. According to him, Article 31

read that, the deliberations referred to in clauses (a) to (f) and (h) to (j) of No. 4 of preceding article shall be devoid of any enforceability without the approval of the Governor General (Government) and as on date it would be the Revenue Minister who is in charge of the Comunidade but he would contend that as far as the present allotment of land of Comunidade in favour of Respondent no. 1 is concerned, it do not have any scheme in place nor did it have any approval from the Government and relying upon the well known principle prescribing that whenever an Act or Rules prescribe a particular procedure to be followed, then it must be necessarily followed whatever may be the consequences flowing therefrom.

Relying upon the principles so laid down in **Ramchandra Keshav Adke (Dead) By LRs & Ors. vs. Govind Joti Chavare & Ors.**³ and the following principle, namely, “where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and that other measures of performance are necessarily forbidden”, it is his specific contention that in the Goa Private Universities Act, 2020 contain a particular procedure to be followed which necessarily involve owning of land, building infrastructure facilities for establishing the University as well as forming of a scheme, and it must have been adhered to.

³ (1975) 1 SCC 559

The learned Senior Counsel also raised a serious objection to the action on part of the Respondent no. 5, in allotting the Letter of Intent on 24.02.2021, without the Respondent no.1 being owner of a land, as according to him the scheme under the Act required an applicant to own the land on the day on which an NOC is given to him and in absence thereof, there could have been no LOI as admittedly the private Institute, the Respondent no.1, had no land with them. As a consequence of this, it is his submission that the Lease Deed dated 01.07.2024 executed with Respondent no. 1 also deserve to be quashed and set aside not on the ground that it is fraudulently executed but on the ground that it is not executed in accordance with law.

10. Contesting the arguments of Mr. Ferreira, the learned Advocate General, Mr Pangam, has placed before us the sequence of events, right on the date on which the Respondent no. 1 filed an application along with a detailed scheme for establishment of Goa Private Universities Act of 2020, culminating into the final Notification published in the Official Gazette declaring the subject property as “Investment Promotion area” under the Goa Investment Promotion and Facilitation of Single Window Clearance Act, 2021.

To repel the contention about fraud being played as regards the Minutes dated 28.02.2024, which were also forwarded to the Collector, North Goa, the Advocate General insisted that we should look into the

original book/proceeding so as to ascertain the claim of fraud being played, as according to Mr. Ferreira, there is difference in the ink and handwriting as regards the relevant particulars.

Coming to provisions of the Goa Private Universities Act, 2020, he would invite our attention to Section 4(e), which according to him, would negate the arguments of Mr. Ferreira as the provisions contemplate that an application containing the proposal and the project report to establish the University to be made to the Government along with necessary fees, must contain the particulars namely, 4(2) (e), (f) and (h):

“4. Submission of proposal for establishment of a University. - (1) An application containing the proposal and the project report to establish an University shall be made by the sponsoring body to the Government through the Director of higher Education along with such fee as may be prescribed by the Government;

(2) The project report must contain the following particulars, namely :

...

(e) the availability of land and details of buildings and infrastructure facilities, owned or proposed to be owned or created as required;

(f) availability of academic facilities including teaching and non-teaching staff, if any, at the disposal of sponsoring body;

...

(h) the nature of facilities, courses of study and research proposed to be started;”

In addition, Mr Pangam would submit that what is required to be submitted is the scheme of mobilizing resources and the cost of capital thereto and the manner of repayment of such sources as well as the scheme for generation of funds.

Further inviting our attention to Article 334 A of the Code of Comunidade, added by way of an amendment in the year 1985, he would rely upon the proviso appended to the said Article, which reads to the following:

“Provided further that the Government may, with the prior consent of the concerned Comunidade, grant on lease, land admeasuring upto 2 lakh sq. mts., to any educational or health institution or any charitable and/or social trust or society or any similar social institution of public utility or engaged in the field of education or health, duly recognised by the Government, for the purpose of any Scheme, without auction:

Provided further that the scheme for which such grant is made on lease shall be scheme which is duly approved by the Government and for which a certificate of ‘No objection’ has been issued by the Government.”

11. In light of the aforesaid provision, Mr Pangam would submit that it is open for the Comunidade to grant on lease, with the prior consent of the concerned, Comunidade land admeasuring 2,00,000.00 square metres to any educational or health institution or charitable and/or social trust for the purpose of a scheme and this land would be made available without auction. Relying upon this aforesaid

provision, he would submit that on 05.01.2024, the Directorate of Education granted approval for consideration of 'Private Universities Act, 2020' as scheme in terms of Article 334 A of the Code of Comunidade. Therefore, it is submitted that upon the file/proposal being received and the NOC being granted by the State Government, the Respondent no. 1 is entitled for establishing of the University under the Act of 2020.

Apart from this, he would also submit that the Lease Deed is already executed between the Comunidade of Tivim as 'Lessor' on the first part pursuant to the Resolution dated 18.04.2024 passed by the Managing Committee of the Comunidade and the MAEER referred to as 'Lessee' in regards to the piece and parcel of land bearing plot no. B, survey no. 88/1 (Part) admeasuring 2,00,000 square metres situated at Village Tivim for establishment of opening of an University/Institute. In addition, it is also the contention of the learned Advocate General that in the 36th Meeting of the Investment Board, the proposal of M/s. World Peace University, a project proposed to set up State Private University offering wide range of courses by the MAEER Group received in-principle approval on the basis that the project proponent is having leased land from the Comunidade of Tivim admeasuring 2,00,000.00 square metres and the investment proposed to bank and self-funding is INR Rs. 256 Crores, which is likely to create a job potential of 512 employees over the next five years.

12. The learned Counsel Mr. Parag Rao representing Respondent no. 7 has called in question the locus of the Petitioners as members of the Comunidade when the majority members constituting the Comunidade have agreed to lease out the land in favour of Respondent no. 1.

Relying upon the affidavit filed by the duly elected Attorney of Comunidade of Tivim, he would submit that the Respondent no. 7- Comunidade is the owner of the property bearing survey no. 88/1 of Village Tivim totally admeasuring 6,33,000 square metre and what is subjected to challenge is a lease of 2,00,000.00 square metres of the said property in favour of Respondent no. 1 vide Deed of Lease dated 01.07.2024 duly registered with the Sub-Registrar under the provisions of Article 334 A.

At the outset Mr. Rao would submit that the Petitioners have failed to exercise their statutory rights as members of Comunidade under the Code as they never objected to the proposal and therefore, they have no right to raise a dispute now. Apart from this he would submit that the Petitioners had an adequate remedy to file an appeal on a Resolution being passed by the Comunidade and its Managing Committee as contemplated under Article 26(8) and it was also open for the members of the Comunidade to intervene, discuss and vote in the meeting and even to record any protest in the Minutes of the

Meeting and having failed to do so, they are not entitled to object to the collective decision of the Comunidade.

Mr. Rao would also invite our attention to Article 397, which is in form of appeals and complaints in general, against the Resolution passed by the Comunidade and the procedure to be followed upon such a grievance being made. He would specifically contend that Petitioner nos. 6 and 7 were present in the meeting of 25.02.2024 and therefore it is not open for them to raise a hue and cry now.

13. Inviting our attention to the scheme in the Code of Comunidade, Mr Rao would submit that Chapter V contains the provisions for long term leases and the procedure to be followed is the same which is prescribed in Chapter VI, which permit the Comunidade to grant Aforamento/emphyteusis in respect of its uncultivated and undeveloped lands and the manner in which the applications shall be processed which is a complete Code by itself and which is also applicable to long term leases.

14. According to Mr. Rao, the Minutes of the meeting held on 25.02.2024, if carefully perused, it is evident that Petitioner nos. 6 and 7 attended the meeting but raised no objection. He would also submit that the Petitioner no. 1 is a defaulter and he has specifically pleaded so in his affidavit. He has strongly contested the argument of Mr. Ferreira about the grant of lease in favour of Respondent no. 1 by fabricating

documents in form of Minutes of Meeting in the Extraordinary General Meeting and he has placed before us the original Minutes book, which on being handed over is directed to be retained with us.

Mr. Rao has strongly contested the arguments of Mr. Ferreira about the Minutes of Meeting being fraudulent and would submit that the edifice of the Petition lies in this assertion which is totally unfounded and he has therefore requested us to compare the documents placed on record by the Petitioner with the original documents with no disclosure as to how the truncated copies are obtained by the Petitioner and from what source.

In any case, it is his submission that any decision of the Comunidade shall be taken by absolute majority of votes as per Article 35 and there is no doubt about the fact that the Resolution is passed by majority as is evident from the proceedings book. Mr. Rao would also deny the contention of Mr. Ferreira that in every case of allotment of land, redemption is available in emphyteusis and not in lease and he has also invited our attention to Tombo 1 and Tombo 2, covered under Article 208 and Article 323 and 241.

He would also seriously defend the rate of lease fixed as according to him the lease is executed on 01.07.2024 and registered on 09.07.2024 and the revision of the rate to 10,000 is at a later date after the lease was already registered and apart from this it is his submission

that the Circular of rates is applicable to sale transaction and not for lease. By inviting our attention to the Minutes of Meeting dated 25.08.2024, it is the submission of Mr. Rao that everybody applauded for the steps taken on behalf of the Comunidade as it received a huge chunk of Rs. 5 Crores and this also included Respondent nos. 6 and 7.

15. Learned Counsel Mr. Yogesh Nadkarni representing the Respondent nos. 8 to 10, who are the members of the Managing Committee also subscribed to the arguments advanced by Mr. Rao and by taking us to the Minutes which are alleged to be forged, he would submit that there is no scope for any interference, if one reads the Minutes in a proper way. In the affidavit filed by Mr. Joselan Pereira, Respondent no. 10, he would specifically invite our attention to paragraphs 9 and 10, which reads thus:

“9. I say that the Minutes starting from "The session started with a welcome by the President" at Page 72 to "pursuant to seeking no objection from the Government and Scheme being recognized by the Government" at page 76, are written by Mr. Pranav Parsekar (Respondent No. 11), the then Escrivao (Clerk) of the Comunidade of Tivim.

The Minutes from "Further resolved that the property be leased" at page 76 to "sports infrastructure would be borne by the Trust" at page 77, are written by me. It is clarified that this portion has been written by me at the request and dictation by the said Mr. Parsekar (Escrivao) as his wrist started hurting by writing the earlier Minutes and he required a small break in writing of the Minutes.

The further Minutes starting from "Further resolved that the said institution be directed to provide a built-up space" at page 77 till "including securing Government approval in terms of Article 31 of the Code of Comunidade" at page 78, are written again by the said Mr. Pranav Parsekar, (Respondent No. 11), the then Escrivao (Clerk) of the Comunidade.

10. I say that thereafter at pages 78 and 79, the names and signatures of the components at the time of leaving the said Meeting have been recorded in the individual handwritings of the said components."

16. Learned Senior Counsel Mr. Ferreira rejoined the submissions pursuant to the arguments advanced on behalf of the Respondents by submitting that the Respondent no. 1 has admitted that it did not possess the land at the time when the application was made and he made a reference to the letter addressed to the State indicating that they did not have the ownership of the land.

The Learned Senior Counsel would place reliance upon the decision in case of **Mohinder Singh Gill & anr. vs. The Chief Election Commissioner, New Delhi & Ors.**⁴ to submit that reasons cannot be stated in affidavit and they must basically exist and therefore this must have been looked into at the time when the Committee decided to grant the permission.

⁴ (1978) 1 SCC 405

Responding to the contention that the rates for leasing out the land were rightly fixed, it is the submission of Mr. Ferreira that the exercise of determining the rates of lands was not carried out at all and therefore there can be no justification offered now. Further he would submit that let the impression be not given that the opening of college is in a larger public interest and it will benefit the State. It is his categorical submission that if any institution or college is opened in this manner, in utter contravention of the procedure described in the statute, the mere argument that it is in the larger public interest would not cure the illegality.

Another argument which he would reiterate is that the Goa Private Universities Act is not a scheme as Article 334-A contemplate that the scheme should be independent and not in form of a statute. In any case, he would reiterate that the missing page is a mystery and it create suspicion in the minds of the members of the Comunidade like the Petitioners and they are justified in carrying the suspicion in the wake of change in handwriting.

17. In the light of the rival contentions, we must first refer to the provisions in the Code of Comunidade on which the arguments of the parties hinge, as it is the submission advanced on behalf of the Petitioners that the allotment of land in favour of Respondent no. 1 without public auction is detrimental to the interest of the

Comunidade and in fact the Comunidade i.e. Respondent no. 7 has completely ignored this aspect. Much arguments are advanced before us about the manner in which the land has been allotted and whether it could have been granted on lease and what is the long term effect of conveying the land through lease in favour of Respondent no. 1.

18. The Code of Comunidades, 1961, comprises of the distinct provisions providing for its constitution, composition, functions, etc. The Comunidades or gauncarias (association of gaucars) is governed by the said Code and each Comunidade comprises of; (a) members by birth – joneiros zonnkars; (b) shareholders; (c) members by birth and shareholders and (d) participants.

As per Article 4, only the Comunidade members by birth- (zonnkars) and shareholders are entitled to the profits or losses of the Comunidades and only they have the rights and duties that are guaranteed and imposed by this Code to the members of the Comunidades.

The Comunidades by virtue of Article 5 are under the administrative tutelage of the State, in terms established in this Code, and its immovable properties may be granted on emphyteusis and alienated in terms of the Code.

Article 26 set out the powers of the members of the Comunidade and this include the power to;

- (1) to intervene, discuss and vote in the meetings of the Comunidade, and record any protests in the minutes of the meeting;
- (2) to be elected or appointed for the posts of the Comunidade;
- (3) To make up for the deficit;
- (4) ...
- (5) ...
- (6) ...
- (7) To examine the income and expenditure sheets, the calculations for the auctions and its conditions, the final accounts, the record books and the account books of the Comunidade and the extraordinary budget heads, at periods and the forms stipulated in this Code;
- (8) To appeal against the resolutions of the Comunidade and of the managing committee and the orders or decisions of the administrator and of the authorities and higher courts and, in general, to submit complaints on the matters which are of the interest of the Comunidade; and
- (9) To report the defalcation of funds of the "Comunidade", the encroachment of its lands and other unlawful acts, as well as any misconduct or error of the employees and agents of the Comunidades."

19. Article 30 included in Section II deals with the Powers of the Comunidades and this includes the power to deliberate on; (f) Emphyteusis, sale or exchange of land; (g) Institution of Civil Suit or other legal proceedings; (i) About the grant of rebate (quita) to the leaseholders; and (j) and in general, about all the extraordinary acts not provided for in the statement of income and expenditure or in the provisions of this Code, as well as relating to any matters about which the opinion is called for.

20. Article 31 provide that the deliberations referred into the aforesaid clauses, shall be enforceable only with the approval of the Government and this includes the lease, sale and exchange of land. The affairs of the Comunidade which are managed by Managing Committee as prescribed in the Code and provide for Administrator of Comunidades with its powers being specifically set out. Chapter IV provide for the powers to be exercised by the Government which include grant of emphyteusis, authorising the exchange of land of Comunidade and reversion of its land along with grant of long time leases under Article 153;

“...

(9) – Grant emphyteusis, authorize the exchange of the land of Comunidades and order its reversion;

(9A) Grant approval to the Comunidades to withdraw, admit or compromise any legal proceedings; and

(10) Grant long time leases.”

21. Chapter IV A introduced in the Code of Comunidade by Act of 22 of 2024 inserted Article 316 A to 316 I which contain provision for grant of licence and this provision has come into effect from 10.10.2024.

By virtue of the said provision, it is open for the Comunidade to grant licence to use its land or a portion thereof, for a commercial event upon payment of non-refundable processing fee.

22. Chapter V of the Code provide for long term leases and Article 317 allow the Comunidade to give on long term lease of its uncultivated lands or paddy fields and the period of lease shall be of nine to eighteen years. The applications for long term lease as per under Article 318 are to be addressed to the Government and processed in the Administration Office, which also contain the period of lease and the rent offered. The procedure relating to grant of emphyteusis is made applicable to the application for long lease and application is expected to be accompanied with a remedy of a beneficiary scheme which the applicant offers to carry out, with indication of services or works to be executed in each year and their probable cost. Article 322 prescribe that if it is permitted to lease the land, in the opinion of the experts, then the land shall be put to auction and the base of the auction shall be indicated by the experts.

23. Chapter VI in the Code is for Aforamentos or emphyteusis and it prescribe the procedure to be followed before such a grant is granted. Article 334 of the Code prescribe that all lands applied for emphyteusis shall be put for public auction without prejudice to the provisions of Article 327 and it set out the mechanism of conduct of the auction.

However, Article 334 A is an exception and this provision reads thus:

“334-A Notwithstanding anything contained in article 334, but subject to article 327, a Comunidade may subject to such guidelines as the Government, may, from time to time, issue, grant on lease not more than 10,000 sq. metres of land to educational societies for construction of playgrounds and not more than 400 sq. metres of land for construction of houses or buildings, without auction, to any of the following categories or for purposes except that the Co-operative Housing Societies of landless person may be granted land not more than 800 sq. mts.:-

- i) Public, Charitable or Religious Institutions;
- ii) For any scheme of providing housing to the economically weaker sections;
- iii) Small scale Industrial purposes;
- iv) Government Departments or local bodies;
- v) Co-operative Housing Societies of landless persons;
- vi) Government servants or employees of the Comunidades who are landless;
- vii) Landless Jonoeiros of the concerned Comunidade;
- viii) Landless Freedom Fighters;
- (viii)(a) landless children of the components of the respective Comunidades of the respective Comunidades who have attained the age of eighteen years;
- ix) Such other categories or purposes as may be notified by the Government, from time to time.

Provided that every notifications issued under this clause shall be laid as soon as may be, after it is issued, before the Legislative Assembly:

Provided further that institutions of public utility and associations of professional bodies duly recognised by the Government may also be granted not more than 10,000 sq. metres of Comunidade land on lease for construction of houses or buildings, without auction.

Provided further that the educational societies, institutions of public utility, social organisation and associations professional bodies duly recognised by the Government and have been granted Comunidade land under any other provisions of law or are in actual possessions of the land, shall be deemed to have granted the same under the provisions of this Legislative Diploma, on payment of annual lease rent.

Provided further that the Government may, with the prior consent of the concerned Comunidade, grant on lease, land admeasuring upto 2 lakh sq. mts., to any educational or health institution or any charitable and/or social trust or society or any similar social institution of public utility or engaged in the field of education or health, duly recognised by the Government, for the purpose of any Scheme, without auction:

Provided further that the scheme for which such grant is made on lease shall be scheme which is duly approved by the Government and for which a certificate of 'No objection' has been issued by the Government.

Provided further that the members of Cooperative Housing Societies and the persons belonging to the categories (vi), (vii) and (viii) above are residing in Goa for preceeding 15 years:

Provided also that no person or members of the Co-operative Housing Societies, as the case may be whose annual income exceeds Rs.15,00,000/- or such amount as may be

prescribed by the Government shall be eligible for grant of land on lease without auction.”

24. The aforesaid provision is for allotment of land of the Comunidade for specific purpose or category, set out in the provision, without auction and this includes the grant of lease on land admeasuring upto 2.00.000.00 square metres to any educational institution engaged in the field of education duly recognised by the Government, for the purpose of any scheme and this is the power which vest in the Government with the consent of the concerned Comunidade. This provision is however further restricted by providing that the scheme for which grant is made on lease shall be the scheme, which is duly approved by the Government for which a certificate ‘No Objection’ has been issued by the Government.

From the perusal of the scheme, contained in the Code, we have noticed the provisions for long term leases being granted by the Comunidade in regards to uncultivated lands or paddy fields and a specific provision in form of Article 334-A allow the Comunidade to issue, grant on lease, the land admeasuring up to 2,00,000 square metres to any educational institution for the purpose of any scheme and this would be done without the auction.

25. In the background of the statutory scheme, we have the facts before us disclosing that the Respondent no. 1-MAEER filed an application on 09.10.2020 for establishment of Private University

under the Goa Private Universities Act, 2020 and this proposal was placed before the Committee constituted under Section 5 of the Act comprising of the Minister of Higher Education as its Chairman and three academicians, Secretary (Higher Education), Secretary (Finance) as well as its other members and the proposal of MIT Group of Institutes was approved subject to acquiring the land in its name. Following this, on 24.02.2021, a Letter of Intent was issued in favour of MAEER stating thus:

“ Sub: - Letter of Intent.

Sir,

I am to refer to your letter No. MAEER /Registrar/100601/2020 dated 09/10/2020 regarding establishment of Private University and to inform you that Committee constituted under Section 5 of the Goa Private University Act, 2020 has recommended your proposal for establishment of Private University in the State of Goa.

Government is satisfied with the Report of the Committee and decided to issue this Letter of Intent to start Private University i.e. MAEER MIT Group of Institutions' Dr. Vishwanath Karad World Peace University in State of Goa.

You are, therefore, requested to comply with the provisions of Section 6 of the Goa Private University Act, 2020 and submit compliance report within a maximum period of two years from the date of issue of this letter of intent failing which letter of intent shall be withdrawn.”

26. On the Letter of Intent being issued since there was a requirement of submitting a compliance report within maximum period of two years, the Respondent no. 1 filed an application for

allotment of land to the President of Comunidade of Tivim, requesting for allotment of 2,00,000.00 square metres of land on long term lease to establish World Peace University in Goa as its institute was intended to provide academic excellence and innovative education in wide array of technical and non-technical streams.

The application in specific stated thus:

“We assure you that MAEER’s MIT Group of Institutions will approach this endeavour with the utmost care, dedication, and respect for Goa’s unique heritage and environment. Our university will be a place of collaboration, innovation, and holistic development for the students and the community alike.”

27. On receipt of this application, the Comunidade of Tivim put up a proposal to the Administrator of Comunidade as regards the grant of subject land. The Comunidade of Tivim also informed the Respondent no. 1 to file a formal application for grant of lease of land along with the necessary documents in the office of Administrator of Comunidade as per the Code of Comunidade and accordingly an application was preferred to the Government for grant of land to the Respondent no. 1 in terms of Article 334 A of the Code and this application addressed to the Governor of Goa requested for allotment of area admeasuring 2,00,000.00 square metres in land bearing survey no. 88/1 (Part ‘B’) situated at Village Tivim belonging to the

Comunidade. Since the processing of the application was necessarily to pass through various stages, the MIT Group of Institutions on 06.12.2023 sought extension of the establishment period in the wake of the Letter of Intent dated 24.02.2021 as the stipulated time had expired, but an assurance was given that necessary steps were being taken.

However, on 11.12.2023, a further communication was addressed to the Director of Higher Education as Comunidade of Tivim had agreed in-principle for allotment of 2,00,000.00 square metres of land in its favour and since Article 334 A of the Code of Comunidade contemplated as the relevant proviso to Article 334 A of the Code of Comunidade comprise of a condition of due recognition by the Government of the scheme, if the land is to be made available without auction and this resulted in issuance of the approval from the Government when it accorded its No Objection to establish the Private University on land proposed to be acquired on lease from the Comunidade. It was further clarified that the Goa Private Universities Act, 2020, had in-built scheme of Private University in the State of Goa.

28. Mr. Ferreira, the learned Senior Counsel, has urged before us that at the time of grant of LOI, it was necessary for Respondent no. 1

to be in possession of the land as Section 6 required compliance of certain stipulations before a Letter of Intent could be issued.

In order to appreciate this argument, we have perused the scheme of the Goa Private Universities Act, 2020, enacted for providing for an establishment and incorporation of private universities in the State for imparting quality higher education.

Section 3 of the Act set out the conditions for the establishment of the University and it prescribe that the sponsoring body, i.e. either a Society registered under the Societies Registration Act or a Public Trust or Company, shall fulfil the following conditions: (a) create a permanent endowment fund of at least rupees five crores; (b) own a land, buildings and infrastructure facilities required for establishing the University. In addition, it also contains stipulations of installation of equipment's, computers, infrastructural facilities, etc., appointing of one Professor, two Associate Professors and sufficient number of Assistant Professors and supporting staff etc. According to Mr. Ferreira, a Body which is desirous of establishing a University must be compliant with all the aforesaid requirements set out therein.

We do not agree with his submission since Section 3 is required to be read along with other provisions of the Act and this includes Section 4 which is a provision for submission of an application containing the proposal and the project report to establish the

University, made to the Government through the Director of Education. The Project report contemplated under sub-section (2) of Section 4 consists of several particulars including; (a) the details of the sponsoring body along with the copies of its registration certificate and bye-laws; (b) the information regarding financial resources of the sponsoring body along with audited accounts for the past three years; (c) the name, location and headquarters of the proposed University; (d) the objectives of the University; (e) the availability of land and details of buildings and infrastructure facilities, owned or proposed to be owned or created as required; (f) availability of academic facilities including teaching and non-teaching staff, if any, at the disposal of sponsoring body; and (h) the nature of facilities, courses of study and research proposed to be started; etc.

The proposal so received shall be then evaluated by the Evaluation Committee and after obtaining its report, if the Government is satisfied it is proper to establish the University, Section 6 provide that it may issue a 'Letter of Intent' and require the sponsoring body to; (i) establish an endowment fund in accordance with the provisions of this Act; (ii) own or possess on a lease atleast for a period of 30 years, a land not less than 50,000 (fifty thousand) square metres or such and as per the requirement of the regulatory body, whichever is higher; (iii) own library, computers and other equipment and the required infrastructure facilities for running academic and research activities as

may be required by the regulatory bodies and the Government from time to time; (iv) give an undertaking to appoint at least one Professor, two Associate Professors and adequate number of Assistant Professors and Research Associates along with necessary supporting staff in each department or discipline to be started by the University and as required by the Regulatory Authority.

Apart from this, before issuing the Letter of Intent, the sponsoring body shall give several other undertakings and what is important is sub-section (2) of Section 6 which provide that the sponsoring body shall after complying with the provisions of Section 3, report the compliance to the Government within a maximum period of five years from the date of issue of the Letter of Intent. Pertinent to note that, the clause (ii) of sub-section (1) of Section 6 underwent an amendment with the Amendment Act 11 of 2023 and substituted the clause by permitting either to own the land or possess on lease the required land. Similarly, according to the LOI, the sponsoring authority shall report compliance to the Government within a period of five years from the date of issuance of LOI and existing clause (ii) of sub-section 1 of Section 6 stood substituted by Amendment Act of 12 of 2025. It is therefore to be noted that the requirement of owning or possessing on long term lease basis, diluted the rigor of owning the land and by further amending the Amendment Act on 27.02.2023, owning or possessing on long term lease basis is a permissible mode.

Another relevant provision is Section 7 which provide that the Government may, if satisfied of the compliance report under sub-section (2) of Section 6 by the sponsoring authority, permit the sponsoring body to operate the University with such name and at such location as it may deem fit and this should be followed by the incorporation of the University as contemplated under Section 8 of the Act.

29. Reading of the scheme of the statute in a concerted manner, lead to an irresistible conclusion that upon an application being made for establishment of a University, a Letter of Intent shall be issued to a sponsoring body and it will require it to comply with the stipulations in Section 6 which shall include owning or possessing on long term basis the land which is required for bringing up the project and the sponsoring authority on ensuring the compliance within a maximum period of five years shall report to the Government and thereafter the Government will permit operation of the University by incorporating it and then it shall become functional.

30. In wake of the aforesaid, the contention of the learned Senior Counsel that in absence of the land being owned by the Respondent no.1, the Government could not have granted approval, do not carry any merit and deserve its rejection.

31. Now we shall turn to the aspect of grant of the Comunidade land to the Respondent no. 1 without auction.

We have already referred to the provisions of the Code of Comunidade and have noted that it is permissible for the Comunidade to grant on lease land admeasuring upto 2,00,000.00 square metres to an educational institution engaged in the field of education for the purpose of any scheme without any auction.

In the sequence of events, we have noted that the State Government vide its communication dated 05.01.2024 had already accorded its No Objection in favour of MAEER for establishing Private University on the land proposed to be acquired.

32. Dealing with the submission as regards the conduct of the Extraordinary General Meeting of the Comunidade on 25.02.2024, the Petitioners allege that there is manipulation in the Minutes of Meeting, where the necessary Resolutions are passed and in specific as regards Agenda no. 4 'Processing under Article 334-A of the Code of Comunidades, of file No. 1-21-2023-ACNZ/2023 of MAEER's MIT Group of Institutions, Pune pertaining to Plot No. 'B' in Survey no. 88/1, in Tivim Village for educational purposes.'

It is the contention of Mr. Ferreira that the handwritten Minutes of Meeting, which he has subsequently procured under the Right to Information Act, were fabricated as the relevant decision on item 4 is

found in a different handwriting and which is alleged to be inserted is the following portion in the Minutes of Meeting:

“... Further resolved that the property be leased for payment of rentals at 12.50 per square metre per annum i.e. Rs. 25,00,000/- per annum plus taxes and other charges (as and when applicable) and the payment of deposit of Rs. 5 Crore in favour of the Comunidade in addition to the lease rentals referred herein.

Further resolved that the aforesaid lease rental amount of Rs.25,00,000 (Twenty Five Lakhs) shall be paid as yearly rental during the subsistence of the lease deed on or before 31st January of every calendar year. There shall be increase of 5% in the rent after every five years.

Further resolved that all costs and expenses towards setting up of the multipurpose educational and technical institution and sports infrastructure would be borne by the Trust.”

33. Relying upon the aforesaid noting in the Minutes of Meeting, the Petition plead thus:

“26. In a strange twist, and perhaps for the first time in the history of any Comunidade, a copy of this General Body Resolution and of the Managing Committee Resolution both dated 25.02.2024 were forwarded to an Applicant and in this case, to Respondent No. 1, by the Escrivão/Respondent No. 11, by letter dated 03d March 2024, which documents were submitted by Respondent No. 1 to the Sub-Registrar of Bardez at Mapusa, when seeking registration of the Lease Deed dated 01.07.2024 and the registered Lease Deed dated 01.07.2024 with the entire set of documents (which form part of the registered document), was submitted by Respondent No. 1 to Goa Investment, Promotion & Facilitation Board (GOA- IPB)/Respondent No. 12 from whom the Petitioners have obtained copies under RII Act, 2005 and this copy sent by the Escrivão, being first document in point of time, has to be taken as

true and cannot be resiled from at this stage. Also, it is important to note that the page numbering of the file of Goa-IPB of the typed copy of the minutes of the Extraordinary General Body meeting dated 25.02.2024 starts at pg. 197 and ends at pg. 202 and does not contain any page in between. Copy of the letter dated 03 March 2024 addressed by the Escrivão to Respondent No. I along with the typed copy of the Minutes of the General Body & Managing Committee of the Comunidade of Tivim obtained under RTI Act 2005, are enclosed hereto and marked "Annexure F colly."

34. Paragraph 27 of the Petition has reproduced the typed portion of the Minutes of the Extraordinary Meeting at Agenda no. 4 dated 25.02.2024 and in regards to all the three Resolutions, it is urged that the Resolution approving the grant of land admeasuring 2,00,000.00 square metres in Village Tivim in perpetuating on lease basis subject to scheme approved by the Government and no rate of land has been fixed in the discussion or in the Resolution and there is also no Resolution taken on the file of Rs. 5 Crores deposit though the Minutes show some discussion having been made.

35. Based on the aforesaid pleadings, Mr. Ferreira has urged before us that the handwriting in Minutes submitted by the Managing Committee (Elected body and the Escrivao) differ from the typed copy submitted to the Government. He would submit that the illegible handwriting and handwritten Minutes except certain parts which could be clearly read is inserted fraudulently and this insertion is detrimental

to the Comunidade and its Gauncares and favourable to Respondent no. 1.

In this regard, we have perused the original proceeding book placed before us by Mr. Parag Rao and we clearly find that there is no discontinuation of the proceedings of the meeting and in the affidavit filed by Respondent no. 7, the alleged discrepancy in the handwriting is clearly explained by submitting that, when the Meeting was in progress, the actual proceedings came to be recorded by the Escrivao but the portion in different handwriting is what was scribed by the Treasurer as the Escrivao had pain in his hand and therefore there is a difference in the handwriting. The typed portion placed along with the Petition's Annexure 'H' comprise of five pages and bear the signature of Escrivao of Comunidade of Tivim.

36. The affidavit filed on behalf of the Respondent no. 9, the Attorney of the Comunidade, has placed a clear picture before us, who has dealt with the allegation that the handwritten Minutes of the Extraordinary General Body Meeting of the Comunidade dated 25.02.2024 have been tampered and are forged. In his affidavit, he state thus:

"9. I say that the Minutes starting from "The session started with a welcome by the President" at Page 72 to "pursuant to seeking no objection from the Government and Scheme being recognized by the Government" at page 76, are written by Mr. Pranav Parsekar

(Respondent No. 11), the then Escrivao (Clerk) of the Comunidade of Tivim.

The Minutes from "Further resolved that the property be leased" at page 76 to "sports infrastructure would be borne by the Trust" at page 77, are written by me. It is clarified that this portion has been written by me at the request and dictation by the said Mr. Parsekar (Escrivao) as his wrist started hurting by writing the earlier Minutes and he required a small break in writing of the Minutes.

The further Minutes starting from "Further resolved that the said institution be directed to provide a built-up space" at page 77 till "including securing Government approval in terms of Article 31 of the Code of Comunidade" at page 78, are written again by the said Mr. Pranav Parsekar, (Respondent No. 11), the then Escrivao (Clerk) of the Comunidade.

10. I say that thereafter at pages 78 and 79, the names and signatures of the components at the time of leaving the said Meeting have been recorded in the individual handwritings of the said components.

11. I say that after the said Extra-Ordinary General Body Meeting of the Comunidade held on 25th February 2024, an Extra-Ordinary Managing Committee of the Comunidade was held on the same day and the Minutes of the said Meeting are placed on record at pages 217 to 221 of the present Petition.

12. I say that on 28th February 2024, the said Mr. Pranav Parsekar, Escrivao of the Comunidade submitted the File No. 1-21-2023-ACNZ/2023 in the Administration Office of the Comunidades, North Zone after completing the procedure of the Extra-Ordinary General Body Meeting and the Extra-Ordinary Managing Committee Meeting of the Comm of Tivim for further procedure, alongwith typed copies of the relevant proceedings of the Extra-Ordinary General Body Meeting of the Comunidade held on 25th February 2024 and the proceedings of the Managing

Committee Meeting of the Comunidade held on 25th February 2024, true copies whereof are hereto annexed and marked "EXHIBIT R1 COLLY".

37. In the affidavit it is further stated that in the Meeting held on 25.02.2024, none of the Gauncares present raised any objection whatsoever to the matter discussed and recorded but on the contrary, the Gauncares unanimously agreed and approved all the Resolutions, decisions and deliberations as duly recorded in the Minutes of Meeting. A further categorical statement in the affidavit reflect the mindset of the majority of the Gauncares of the Comunidade where he states thus:

“ 14. I further state, and most emphatically place on record that apart from the principal terms, additional social benefits including but not limited to scholarships and fee concessions for the children of Gauncares, establishment of a gymnasium, and other allied amenities were expressly discussed, considered, and unanimously approved. The rate of land was also deliberated upon in detail and was unanimously accepted, having due regard to the lease transaction and the particular nature and classification of the land concerned.”

At the end of the Minutes of Meeting, there are signatures of 45 persons and these Minutes in continuation include the portion which is objected to by stating that because it is found to be written in different handwriting, it is inserted later on.

38. Since we had an opportunity to look at the original proceeding book we do not find any scope of insertion of the relevant portion which is objected to as being inserted later on and even we find that the reproduction of the happenings of the Meeting in form of the Minutes is in continuation where it was unanimously resolved that area of 2,00,000.00 square metres forming part of the property surveyed under survey no. 88/1 of Village Tivim, be leased to Maharashtra Academy of Engineering and Educational Research, MIT Group of Institutions, Pune, in perpetuity for the purpose of setting up of a Multipurpose Educational Institution and Sports Facility. Further the Resolution also referred to the rentals and payment of deposit of Rs. 5 Crore in favour of the Comunidade in addition to the rentals and the timeline within which the lease rentals shall be paid every calendar year along with rise of 5% every year.

39. The learned Advocate General has also produced before us the files which are received by the Administrator on 28.02.2024, which comprise of five pages. However, along with the Lease Deed, the Resolution which is annexed, the fourth page of the document is missing and the document was thus circulated with only four pages which probably is the cause of suspicion expressed by the Petitioners but, we are not at all convinced with the said submission, as we had an opportunity to peruse the original proceeding book where we do not

find any scope for manipulation and since a justification is offered that there was change in the persons who was recording the Minutes and therefore the handwriting differed, and with 45 people signing the Minutes of Meeting, we have no doubt in our mind that the Minutes of the Meeting are recorded as per what actually transpired and the contention that the Minutes are manipulated, do not hold good.

40. We have also recorded the submission of Mr. Rao that two of the Petitioners, 6 and 7, attended the Meeting but they never raised any objection and we find that there is a mechanism prescribed under the Code of Comunidade to file in form of an Appeal as it is right of every member of Comunidade to intervene, discuss and vote in the Meeting and even record any protest in the Minutes of Meeting. Even it is open for such a member to file an appeal against the Resolutions of the Comunidade and of the Managing Committee and the orders or decision of the Administrators and to submit complaints which are in the interest of the Comunidade but having failed to do so, we are not convinced to look into the accusations in the Petition that the Minutes were manipulated or that the decision taken was against the interest of the Comunidade as it was well within the power of the members i.e. the Petitioners, to raise a challenge.

The decision taken in the Meeting dated 25.02.2024 is taken by Majority as 65 members of the Comunidade had attended the

Meeting. Pursuant to the decision taken in the Meeting dated 25.02.2024, a Lease Deed was executed on 01.07.2024 reproducing the terms which were unanimously agreed when the Comunidade as a Lessor executed a Lease Deed of area admeasuring 2,00,000.00 square metres situated in Village Tivim and belonging to it by way of lease.

41. The Lease Deed record that the Lessee had submitted an application for leasing of Comunidade land for institutional purpose before His Excellency, the Governor Goa and on 05.01.2024, the Government of Goa, declared the scheme presented by it as the Scheme Under the Goa Universities Act, 2020 and construing it to be a scheme under the proviso of Article 334 of the Code of Comunidades, after due deliberations and discussions, the rent amount was agreed to be paid for lease to be executed for a period of 99 years with renewal for perpetuity in the wake of Resolution dated 25.02.2024. The Lease document also record that on 18.06.2024, the Revenue Department of the Government of Goa approved the proposal for the grant of lease for the said period of the property in favour of the Lessee and by a Memorandum dated 21.06.2024, the Additional Collector-II conveyed to the Administrator of Comunidades, North Zone, its approval for grant of the said property in favour of the Lessee.

The Lease Deed therefore clearly set out the grant and the terms of the Lease with the covenant of Rs. 5 Crores as one time refundable

deposit and the rent to be paid at Rs.12.50 paise per square metre per annum i.e. Rs.25,00,000 lakhs per annum plus taxes and other charges during the subsistence of the lease period. The Lease Deed also mention that the leased rentals will be enhanced by 5% every three years. Apart from this, it also include special conditions including the built up space of 400 square metres to be constructed by the Lessee which would be utilised for the office and other requirements of the Lessor and Gymnasium and other amenities for exclusive use of the family of the components of the Comunidade. In addition, the Lessee also agreed to provide a fee concession of 50% of tuition fees to the students belonging to the family of the components of Tivim Comunidade purely on merit basis for admission to the institutions under the proposed Goa Campus and even its campus in Kothrud, Pune. It also contain a clause for the Lessee giving preference to the family of the components of Tivim Comunidade and Villagers of Tivim in employment at Goa Campus subject to the availability of vacancies.

42. It is this reason, which is called in question and as Mr. Ferreira has conceded that he is on the procedure adopted in grant of the Lease and one of the grievance raised is also about not carrying out the exercise of determining the rates of land in terms of the Order said to have been passed by the Revenue Department from time to time. But, as the learned Advocate General has pointed to us that the rates of tax

are being applicable for the sale of the property and for the payment of the stamp duty thereon and the insistence of Mr. Ferreira that the revision of the amount of Rs.10,000/- shall be taken into consideration, is also not of any substance as we find that the Lease executed on 01.07.2024 pursuant to the unanimous decision taken in the Meeting held on 25.02.2024 where an unanimous decision is taken in fixing the lease rent whereas the Order of the Registrar where the amount is enhanced to Rs.10,000/- per square metre is subsequent circular and merely because it was closer to the date on which the revision was due, could be no ground according to us to enhance the rates of lease and in any case, apart from this what we find is that the Comunidade has unanimously taken a decision for leasing out its property and definitely it is not for some paltry sum but it is benefited because the Lease would yield it a monthly rent of Rs.25,00,000/- (Twenty Five Lakhs) per annum plus taxes and other charges as rent during the subsistence of the lease period.

Apart from this, in consideration of the grant of Lease in perpetuity the Lessee has deposited an amount of Rs. 5 Crores in the back account of the Lessor, Comunidade of Tivim, as one time refundable deposit. Not only this, it is also agreed that the lease rentals would be enhanced by 5% every three years and the timely payment of the lease rents is also assured by stipulating necessary conditions in the Lease Deed.

43. It is also worth to note that in the subsequent meeting of the Comunidade held on 25.08.2024, the Resolution no. 7 recorded thus:

“7. Deliberation on amount of Maharashtra Academy of Engineering of Educational Research, Pune (MAEER)

The Treasurer was pleased to inform the meeting that the comunidade of Tivim was in receipt of the highest over sum received in comunidade coffers amounting to Rs.5,00,00,000 = 00 (Rupees Five cores only) as a deposit toward part of land granted to Maharashtra Academy of Engineering of Educational Research Pune (MAEER)

In addition to this the comunidade of Tivim would receive a yearly lease rental of Rs.25,00,000=00 (Rupees Twenty Five Lakhs only) which also happens to be a record rental Receipt.

Opinions of the members were sought as to the utilization of these funds After a lot of deliberation and discussion the Gauncars congratulated the managing committee and empowered them to take appropriate steps so as to allocate these amounts in the best possibal manner.”

From the aforesaid, it is evident that the members of the Comunidade, probably except the Petitioners, were convinced that the decision taken by it unanimously was in its larger interest and we find that only the Petitioners feel that the decision is against the interest of the Comunidade.

44. There cannot be any doubt about the nature of the Comunidade, which is a body of persons sharing common interest and the Code of Comunidade which was enacted under the

Legislative Diploma no. 2070 dated 07.06.1961 govern the rights in any land belonging to the Comunidade. The history of the Code of Comunidade is well articulated in **Mr. Gregorio Fernandes & Ors. vs. Collector & D.C.A. North Goa & ors.**⁵, which reads thus:

“A Comunidade is an institution peculiar to the Territory of Goa. There are over 200 Comunidades of various villages and towns and they are broadly divided into two zones: North and South. They are governed by the Code of Comunidades 1961 which was enforced in this Territory by the erstwhile Portuguese Government by Diploma Legislativo No.2070. Before this Court of 1961 was brought into force, these institutions were governed by a Code of Comunidade 1933 which had replaced the earlier one of 1910. A Comunidade is an Association of villagers, persons who established a Comunidade of a village and their lineal descendants are styled as "Jonoeiros". "Jonoeiros" are therefore the group of persons who have share in the land as well as the income from properties. By virtue of the birth in the families which had established them, their rights are heritable. There are Comunidades which are solely composed of "Jonoeiros", but a large number of them are also composed of shareholders in addition to "Jonoeiros". It is possible for any "Jonoeiro" to acquire shares of a Comunidade. The shareholders are entitled to dividends which are declared from time-to-time based upon the income of a Comunidade. The shares are transferable.

2. With a view to streamline over 200 Comunidades in the Territory of Goa, they are brought under a common Code with the result the Comunidades all over are governed by uniform law and the Rules which are embodied in the Code.

Article 5 of the Code of Comunidades of 1961 says that all Comunidades are under administrative tutelage of the State with the power to create perpetual lease or alienate properties as laid in the Code. Large number of powers are bestowed under this Code on the Governor General, for under the Portuguese regime the Governor General was the main executive. For administrative convenience three groups are made and each group is placed under an Administrator appointed by the Governor. An administrator of Comunidades has large number of powers both executive-cum-administrative. Every

⁵ Writ Petition No. 134 of 1992 decided on 14.06.1994

Comunidade has a clerk known as "Escrriyao" appointed by the Governor.

3. The business of each of the Comunidades is carried on by an administrative board chosen triennially as prescribed in the Code vide Article 39. Article 40 provides that the administrative board shall consist of three members: President and two members out of which one is "Procurador" (Attorney) and the other Treasurer and each of these posts have substitutes."

45. Keeping in mind that the Comunidade is an Association composed of various components which work under the tutelage of the State is definitely bound to watch the interest of its members i.e. the reason why the Code of Comunidades specifically expected a decision to be taken by majority. In the present case, the decision to lease out the land of the Comunidade in favour of Respondent no. 1, is a decision taken by majority and the Petitioners, while the meeting took place, did not object to the unanimous decision nor did they ever invoke the remedy available of raising a challenge to the Resolution which could have been either on the ground that it is malafide or not in the interest of Comunidade but they chose to keep mum till the time the Lease Deed came to be executed and that formed the basis of the allotment of the land in favour of the Respondent no. 1 by determining the terms and conditions of the lease and except for the Petitioners, we find that no other member of the Comunidade is of the view that the decision taken is not in the interest of Comunidade.

In any case it is not for us to determine the commercial wisdom of the decisions but if the members of the Comunidade feel that it is

in their interest and have taken a unanimous decision by accepting the lease rent, we do not deem it appropriate to interfere with the same.

46. The challenge raised in the Petition being devoid of any merit and substance and though we find that every attempt is made by the Petitioners to dislodge the unanimous decision taken by the Comunidade, which ultimately resulted into execution of the Lease Deed between the Comunidade and the Respondent no. 1, which according to us, is a unanimous decision and is also going to benefit the Comunidade, we are not inclined to show any indulgence. The decision is taken by the majority and was well within the powers of the Comunidade which is empowered to grant long term lease and since the entire procedure was followed by the Respondent no. 1 before it entered into a lease agreement and since the lease is for a purpose of a scheme which is already contemplated under the Act of Goa Private Universities Act, 2020, we refuse to entertain the cause in the Petition, as by entertaining it we would rather be acting against the interest of the Comunidade and in no way we are inclined to interfere with the unanimous decision taken by a body i.e. Comunidade of Tivim.

Hence, we dismiss the Writ Petition by discharging the Rule.

Easy on costs.

ASHISH S. CHAVAN, J.

BHARATI DANGRE, J.