

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

S.B. Civil Writ Petition No. 13243/2026

CNR: RJHC010602112026

URN: CW / 24093U / 2026

Peer Mohammad Shah Jilani Dargah Samiti, Ramgarh Dist.
Jaisalmer Through Its Chairman Sh. Juma Khan S/o Burhan Khan
Aged About 58 Years R/o Chak 87 LLb (IGNP) Ramgarh Dist.
Jaisalmer Raj.

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary
Department Of Home Govt. Of Raj. Secretariate Jaipur
2. District Collector, Jaisalmer
3. Superintendent Of Police, Jaisalmer
4. Deputy Commissioner, Colonization Dept. Jaisalmer
5. Tehsildar Colonization, Ramgarh No. 2 Dist. Jaisalmer

----Respondents

Connected With

S.B. Civil Writ Petition No. 13244/2026

CNR: RJHC010601442026

URN: CW / 24094U / 2026

1. Surab Khan S/o Shembhu Khan, Aged About 60 Years, R/
o Lalasar Tehsil Gadra Road Dist. Barmer
2. Ibrahim S/o Gulab Alias Megha, Aged About 55 Years, R/o
Lalasar Tehsil Gadra Road Dist. Barmer
3. Rahim S/o Ishaq, Aged About 50 Years, R/o Lalasar Tehsil
Gadra Road Dist. Barmer
4. Asman S/o Gulab, Aged About 50 Years, R/o Lalasar Tehsil
Gadra Road Dist. Barmer
5. Salim S/o Arbab, Aged About 56 Years, R/o Lalasar Tehsil
Gadra Road Dist. Barmer
6. Shekha S/o Adarim, Aged About 65 Years, R/o Lalasar
Tehsil Gadra Road Dist. Barmer

----Petitioners

Versus

1. The State Of Rajasthan, Through The Secretary Revenue
Dept. Govt. Secretariat Jaipur Raj.
2. The District Collector, Barmer Raj.
3. The Tehsildar, Gadra Road Dist. Barmer Raj.

----Respondents

S.B. Civil Writ Petition No. 13277/2026

CNR: RJHC010603742026

URN: CW / 24157U / 2026

1. Ahmed S/o Sakhi, Aged About 63 Years, R/o Nagodar Ki Basti, Tehsil Chohtan, District Barmer.
2. Akbar S/o Sayar, Aged About 60 Years, R/o Sadul Ki Gafan, Tehsil Chohtan, District Barmer.
3. Janu S/o Taju, Aged About 45 Years, R/o Jamgarh, Tehsil Chohtan, District Barmer.
4. Aaib S/o Sindha, Aged About 60 Years, R/o Bhabhute Ki Dhani, Tehsil Chohtan, District Barmer.
5. Kamardeen S/o Moosa, Aged About 45 Years, R/o Bhabhute Ki Dhani, Tehsil Chohtan, District Barmer.
6. Shera S/o Dilar, Aged About 45 Years, R/o Bhabhute Ki Dhani, Tehsil Chohtan, District Barmer.

----Petitioners

Versus

1. State Of Rajasthan, Through Chief Secretary, Government Secretariat, Government Of Rajasthan, Jaipur.
2. The Principal Secretary (Revenue), Government Of Rajasthan, Jaipur.
3. Collector, Barmer.
4. Tehsildar, Chohtan, District Barmer.

----Respondents

S.B. Civil Writ Petition No. 13281/2026

CNR: RJHC010603802026

URN: CW / 24164U / 2026

Madarsa AI-E-Sunnat Faze-E-Asgariya, (Barelavi), SBS Nagar Ki 16 Rd, Revenue Gram Mandau, Tehsil And District Jaisalmer Through Its Manager Sh. Sayre Khan S/o Samote Khan, Aged About 68 Years, Resident Of Village Mandau, Mohangarh, District Jaisalmer Raj.

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary, Department Of Home, Government Of Rajasthan, Secretariat, Jaipur.
2. District Collector, Jaisalmer.
3. Superintendent Of Police, Jaisalmer.
4. Deputy Commissioner, Colonization Department, Jaisalmer.
5. Tehsildar Colonization, Tehsil Mohangarh No.2, District Jaisalmer.

----Respondents

S.B. Civil Writ Petition No. 13282/2026

CNR: RJHC010603942026

URN: CW / 24165U / 2026

Jama Masjid, Sadrau (Barelavi), Tehsil And District Jaisalmer

Through Its Manager Sh. Usman Khan S/o Imam Din, Aged About 56 Years, Resident Of 17, Mukhaya Gram, Nehdai, District Jaisalmer Raj.

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary, Department Of Home, Government Of Rajasthan, Secretariat, Jaipur.
2. District Collector, Jaisalmer.
3. Superintendent Of Police, Jaisalmer.
4. Deputy Commissioner, Colonization Department, Jaisalmer.
5. Tehsildar Colonization, Tehsil Mohangarh No.2, District Jaisalmer.

----Respondents

S.B. Civil Writ Petition No. 13284/2026

CNR: RJHC010603922026

URN: CW / 24168U / 2026

Fatima Masjid, Sayre Khan Ki Dhani, SBS Nagar Ki 16 Rd, Revenue Gram Mandau, Tehsil And District Jaisalmer Through Its Manager Sh. Sayre Khan S/o Samote Khan, Aged About 68 Years, Resident Of Village Mandau, Mohangarh, District Jaisalmer, Rajasthan.

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary, Department Of Home, Government Of Rajasthan, Secretariat, Jaipur.
2. District Collector, Jaisalmer.
3. Superintendent Of Police, Jaisalmer.
4. Deputy Commissioner, Colonization Department, Jaisalmer.
5. Tehsildar Colonization, Tehsil Mohangarh No.2, District Jaisalmer.

----Respondents

S.B. Civil Writ Petition No. 13285/2026

CNR: RJHC010603832026

URN: CW / 24169U / 2026

Madarsa A1-E-Sunnat Faze-E-Lakiyari (Barelavi), Chak 9 SBS Sadrau, Tehsil And District Jaisalmer Through Its Manager Sh. Usman Khan S/o Imam Din, Aged Abut 56 Years, Resident Of 17, Mukhaya Gram, Nehdai, District Jaisalmer Raj.

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary, Department Of Home, Government Of Rajasthan, Secretariat, Jaipur.
2. District Collector, Jaisalmer.

3. Superintendent Of Police, Jaisalmer.
4. Deputy Commissioner, Colonization Department, Jaisalmer.
5. Tehsildar Colonization, Tehsil Mohangarh No.2, District Jaisalmer.

-----Respondents

S.B. Civil Writ Petition No. 13299/2026

CNR: RJHC010604022026

URN: CW / 24204U / 2026

Noorani Masjid, Boogal Ki Dhani, Sadrau Tehsil And District Jaisalmer Through Its Manager Sh. Momad Khan S/o Boogal Khan, Aged About 62 Years, Resident Of Boogal Ki Dhani, Sadrau, Mohangarh, District Jaisalmer (Raj.).

-----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary, Department Of Home, Government Of Rajasthan, Secretriare, Jaipur.
2. District Collector, Jaisalmer.
3. Superintendent Of Police, Jaisalmer.
4. Deputy Commissioner, Colonization Department, Jaisalmer.
5. Tehsildar Colonization, Tehsil Mohangarh No. 2, District Jaisalmer.

-----Respondents

S.B. Civil Writ Petition No. 13308/2026

CNR: RJHC010605832026

URN: CW / 24220U / 2026

Jamiah Mahmoodiyah Detani Sansthan, Gadra Road, District Barmer Through Its President Sh. Jamaluddin S/o Mohammed Salar, Aged About 65 Years, Resident Of Ganganiyon Ka Par, Abhey Ka Par, District Barmer (Raj.).

-----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary, Department Of Home, Government Of Rajasthan, Secretariate, Jaipur.
2. District Collector, Barmer.
3. Superintendent Of Police, Barmer.
4. Tehsildar, Gadra Road, District Barmer.

-----Respondents

S.B. Civil Writ Petition No. 13311/2026

CNR: RJHC010605022026

URN: CW / 24226U / 2026

1. Jaman Shah S/o Gulshah, Aged About 51 Years, Presently Secretary, Anwar - E- Hasnain, Shikshak Sansthan Tamachi Ki Gafan, R/o Tamachi Ki Gafan, Tehsil- Chohtan, District- Barmer.

2. Ali Sher S/o Khanu, Aged About 40 Years, Presently Secretary, Anwar - E- Hasnain, Shikshak Sansthan Tamachi Ki Gafan, R/o Tamachi Ki Gafan, Tehsil- Chohtan, District- Barmer.

----Petitioners

Versus

1. State Of Rajasthan, Through Chief Secretary, Government Secretariat, Government Of Rajasthan, Jaipur.
2. The Principal Secretary (Revenue), Government Of Rajasthan, Jaipur.
3. Collector, Barmer.
4. Tehsildar, Chohtan, District- Barmer.

----Respondents

S.B. Civil Writ Petition No. 13340/2026

CNR: RJHC010607202026

URN: CW / 24276U / 2026

Ameen Khan S/o Gaji Khan, Aged About 30 Years, R/o Village And Post Office Bhagu Ka Gaon, Tehsil And District Jaisalmer (Raj.)

----Petitioner

Versus

1. The State Of Rajasthan, Through District Collector, Jaisalmer.
2. Commissioner, Colonisation, Bikaner.
3. Deputy Commissioner, Colonisation, Jaisalmer.
4. Assistant Colonisation Commissioner, Mohangarh (B), Jaisalmer.
5. Tehsildar Colonisation, Tehsil Mohangarh (Ii), Jaisalmer.

----Respondents

S.B. Civil Writ Petition No. 13352/2026

CNR: RJHC010607842026

URN: CW / 24299U / 2026

Masjid Usmaniya Vikas Samiti, Chak 26 K L D, Bhurasar, District Bikaner (Raj.) Through Its Care Taker Sh. Naju Khan S/o Molabax, Aged About 36 Years, Resident Of Bhurasar, District Bikaner (Raj.)

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary, Department Of Home, Government Of Rajasthan, Secretariat, Jaipur.
2. District Collector, Bikaner.
3. Superintendent Of Police, Bikaner.
4. Administrator, Gram Panchayat, Bhurasar, Panchayat Samiti Bajju, District Bikaner.
5. Tehsildar, Bajju Khalsa, District Bikaner.

----Respondents

S.B. Civil Writ Petition No. 13354/2026

CNR: RJHC010607752026

URN: CW / 24301U / 2026

Islam Deen S/o Khan Mohammad, Aged About 32 Years,
Resident Of Purana Minawas, Shekhon Ka Tala, Panche Ka Talab,
District Jaisalmer (Raj.).

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary,
Department Of Home, Government Of Rajasthan,
Secretariat, Jaipur.
2. District Collector, Jaisalmer.
3. Superintendent Of Police, Jaisalmer.
4. Tehsildar, IGNP, Nachana No. 2, Jaisalmer.

----Respondents

S.B. Civil Writ Petition No. 13363/2026

CNR: RJHC010606062026

URN: CW / 24310U / 2026

Madarsa Ahle Sunnat Goshiya, Hakim Ki Dhani, 6-9 Chak Aabadi
Panche Ka Tala, Nachana, Pokaran, District Jaisalmer Through Its
Manager Sh. Hakim Khan S/o Deenu Khan, Aged About 61 Years,
Resident Of Panche Ka Tala, Pokaran, District Jaisalmer (Raj.).

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary,
Department Of Home, Government Of Rajasthan,
Secretariat, Jaipur.
2. District Collector, Jaisalmer.
3. Superintendent Of Police, Jaisalmer.
4. Tehsildar, IGNP, Nachana-2, District Jaisalmer.

----Respondents

S.B. Civil Writ Petition No. 13472/2026

CNR: RJHC010612762026

URN: CW / 24495U / 2026

Madarsa Ahle Sunnat Feze Roze Ki Dhani, Laale Ki Basti Rahu Ka
Par, Sam Jaisalmer Through Its President Sh. Makal Khan S/o
Aachar Khan, Aged About 45 Years, Resident Of Balidad Ki Basti
Dhanana Loonar, District Jaisalmer (Raj.).

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary,
Department Of Home, Government Of Rajasthan,
Secretariate, Jaipur.
2. District Collector, Jaisalmer
3. Superintendent Of Police, Jaisalmer
4. Deputy Commissioner, Colonization Department,
Jaisalmer.
5. Tehsildar Colonization, Tehsil Jaisalmer, District Jaisalmer.

----Respondents

S.B. Civil Writ Petition No. 13617/2026
 CNR: RJHC010617952026
 URN: CW / 24775U / 2026

Madarsa Ahle Sunnat Fez Gosul Azam, Hamiron Ki Basti Through Its Secretary Sh. Aachar Khan S/o Gala Khan, Aged About 59 Years, Resident Of Hamira Ki Basti, Sam District Jaisalmer Raj.

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary, Department Of Home, Government Of Rajasthan, Secretariat, Jaipur.
2. District Collector, Jaisalmer.
3. Superintendent Of Police, Jaisalmer.
4. Deputy Commissioner, Colonization Department, Jaisalmer.
5. Tehsildar Colonization, Tehsil Jaisalmer, District Jaisalmer.

----Respondents

S.B. Civil Writ Petition No. 13637/2026
 CNR: RJHC010618382026
 URN: CW / 24807U / 2026

Dildar Khan S/o Ganni Khan, Aged About 37 Years, Resident Of Gomat, Pokaran Jaisalmer Raj.

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary, Department Of Home, Government Of Rajasthan, Secretariat, Jaipur.
2. District Collector, Jaisalmer.
3. Superintendent Of Police, Jaisalmer.
4. Deputy Commissioner, Colonization Department, Jaisalmer.
5. Tehsildar Colonization, Mohangarh No.1, District Jaisalmer.

----Respondents

S.B. Civil Writ Petition No. 13858/2026
 CNR: RJHC010634052026
 URN: CW / 25225U / 2026

Madarsa Ahle Sunnat Gulzar Rashidi, Rahu Ka Par Through Its Imam Sh. Amir Khan S/o Parta Khan, Aged About 33 Years, Resident Of Rahu Ka Par, Sam District Jaisalmer Raj.

----Petitioner

Versus

1. Union Of India, Through The Home Secretary, Ministry Of Home Affairs, Government Of India, North Block, Central Secretariat, New Delhi, 110001.
2. The State Of Rajasthan, Through Its Principal Secretary, Department Of Home, Government Of Rajasthan, Secretariat, Jaipur.

3. District Collector, Jaisalmer Raj.
4. Deputy Commissioner, Colonization Department, Jaisalmer.
5. Tehsildar Colonization, Tehsil Jaisalmer, District Jaisalmer.

-----Respondents

S.B. Civil Writ Petition No. 13614/2026

CNR: RJHC010617782026

URN: CW / 24749U / 2026

Madarsa Sibghtul Islam Faize Sayyed Peer Peeran Ukaralapar, Sam, Jaisalmer Through President Sumar Khan S/o Umar Khan, Age 38 Years, R/o Ukaralapar, Sam, Jaisalmer.

-----Petitioner

Versus

1. State Of Rajasthan, Through Chief Secretary, Government Secretariat, Government Of Rajasthan, Jaipur.
2. The Principal Secretary (Colonization), Government Of Rajasthan, Jaipur.
3. Collector, Jaisalmer.
4. Tehsildar (Colonization), Jaisalmer, District- Barmer.

-----Respondents

S.B. Civil Writ Petition No. 13631/2026

CNR: RJHC010620532026

URN: CW / 24798U / 2026

Madarsa Ehle Sunnat Faize Gosul Haque Sakhar Nooh, Changaniyon Ki Basti, Sam, Jaisalmer Through Secretary Male Khan S/o Jusab Khan, Age 38 Years, R/o Changaniyon Ki Basti, Sam, Jaisalmer.

-----Petitioner

Versus

1. State Of Rajasthan, Through Chief Secretary, Government Secretariat, Government Of Rajasthan, Jaipur.
2. The Principal Secretary (Colonization), Government Of Rajasthan, Jaipur.
3. Collector, Jaisalmer.
4. Tehsildar (Colonization), Jaisalmer, District- Barmer.

-----Respondents

S.B. Civil Writ Petition No. 13633/2026

CNR: RJHC010620602026

URN: CW / 24801U / 2026

Madarsa Ahle Sunnat Faize Roje Dhani, Gajuon Ki Basti, Sam,

Jaisalmer Through Secretary Piyare Khan S/o Jam Khan, Age 56 Years, R/o Gajuon Ki Basti, Sam, Jaisalmer.

-----Petitioner

Versus

1. State Of Rajasthan, Through Chief Secretary, Government Secretariat, Government Of Rajasthan, Jaipur.
2. The Principal Secretary (Colonization), Government Of Rajasthan, Jaipur.
3. Collector, Jaisalmer.
4. Tehsildar (Colonization), Jaisalmer, District- Jaisalmer.

-----Respondents

S.B. Civil Writ Petition No. 13785/2026

CNR: RJHC010613582026

URN: CW / 25113U / 2026

Kamil Khan S/o Jiyan Khan, Aged About 43 Years, R/o Mohammad Nagar Bharewala Dist. Jaisalmer Raj.

-----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary Dept. Of Home Govt. Of Raj. Secretariate Jaipur
2. District Collector, Jaisalmer
3. Superintendent Of Police, Jaisalmer
4. Tehsildar, IGNP, Nachana No. 1 Jaisalmer

-----Respondents

S.B. Civil Writ Petition No. 13812/2026

CNR: RJHC010613622026

URN: CW / 25160U / 2026

Alaj Vaya S/o Ibrahim Khan, Aged About 40 Years, Resident Of Bharewala, District Jaisalmer (Raj.)

-----Petitioner

Versus

1. The State Of Rajasthan, Through It Principal Secretary, Department Of Home, Government Of Rajasthan, Secretariat, Jaipur.
2. District Collector, Jaisalmer
3. Superintendent Of Police, Jaisalmer
4. Tehsildar, IGNP, Nachana No.1 District Jaisalmer



----Respondents

S.B. Civil Writ Petition No. 13900/2026
CNR: RJHC010636652026
URN: CW / 25329U / 2026

Hanif Khan S/o Gani Khan, Aged About 62 Years, Resident
Of Raichandwala, Tawriwala, District Barmer (Raj.)

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary, Department Of Home, Government Of Rajasthan, Secretariate, Jaipur
2. District Collector, Jaisalmer
3. Superintendent Of Police, Jaisalmer.
4. Village Development Officer, Gram Panchayat Jaluwala, District Jaisalmer.

----Respondents

S.B. Civil Writ Petition No. 14231/2026
CNR: RJHC010655502026
URN: CW / 25976U / 2026

Madarsa Kadarya Faije Rashdiya Shikshan Sansthan, Sam,
District Jaisalmer, Through Its Secretary Sh. Hazi Fatan
Khan S/o Hazi Peeru Khan, Aged About 64 Years, Resident
Of Rojaniyon Ki Basti, Tehsil Sam, District Jaisalmer (Raj.).

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary, Department Of Home, Government Of Rajasthan, Secretariat, Jaipur.
2. District Collector, Jaisalmer.
3. Superintendent Of Police, Jaisalmer.
4. Village Development Officer, Gram Panchayat Sam, Panchayat Samiti Sam, District Barmer.

----Respondents

For Petitioner(s)	:	Mr. Vikas Balia, Sr. Advocate assisted by Mr. Tahir Hakim Mr. Harish Kumar Purohit Mr. Ikbali Khan Mr. Shahbaz Khan Mr. Mohd. Riyaz Mr. Abdul Kadir Mr. C.S. Kotwani and Mr. Chinmoy Shekhar Kotwani Mr. Abhijeet Singh Charan Mr. A.R. Beniwal Mr. M.A. Siddiqui with Mr. Naved Khan Sindi
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Mr. Usman Ghani
Mr. M.D. Riyaz
Mr. C.M. Sharma
Mr. Gagan Khan Mehar
Mr. Harish Kumar Purohit
Mr. Iqbal Khan

For Respondent(s) : Mr. Rajendra Prasad, Advocate General assisted by Mr. Anirudh Singh Shekhawat
Mr. Bharat Vyas, ASG, through VC assisted by Mr. Vaibhav Bhansali and Ms. Neeti Jain Bhandari
Mr. Manish Patel
Mr. B.L.Bhati, AAG assisted by Mr. Sandeep Soni, AAAG
Mr. Deepak Chandak, AAAG
Mr. Sukhdev Sharma, AGC
Ms. Sulochana Bishnoi
Mr. Shyam Paliwal, DSG

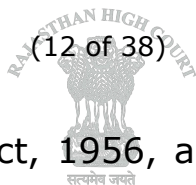
HON'BLE MR. JUSTICE SAMEER JAIN

Judgment

REPORTABLE:

1.	Arguments Concluded on:	07.07.2026
2.	Judgment Reserved on:	07.07.2026 08.07.2026 09.07.2026
3.	Full Judgment/Operative Part Pronounced:	Full Judgment
4.	Pronounced on:	13.07.2026

1. In the present batch of writ petitions, the ambit of the controversy, albeit not exhaustively circumscribed, is broadly and predominantly delineated by the challenge laid to the correctness and/or validity of the eviction/vacation/ and show-cause notices (hereinafter referred to as “notices”) issued by the respondents to the petitioners, qua their respective properties and constructions situated within a radius of approximately 50 kilometers from the Indo–Pakistan border. The impugned actions as alleged by the petitioners are purportedly undertaken under diverse statutory regimes, *inter alia*, the Rajasthan Colonization Act, 1954, the



Rajasthan Land Revenue Act, 1956, as well as the relevant rules governing Gram Panchayats. In view of the fact that the instant writ petitions necessitate adjudication upon common and overlapping questions of law, and with the consent of learned counsel appearing for all contesting parties, **S.B. Civil Writ Petition No. 13243/2026**, titled **Peer Mohammad Shah Jilani Dargah v. State of Rajasthan & Ors.**, is hereby treated as the lead matter. It is, however, cautiously clarified that any dissimilarities or variances in the present batch of petitions are confined strictly to the individual factual matrices and shall not impinge upon, nor bear relevance to, the uniform questions of law that fall for determination before this Court; and that the instant judgment shall be applicable on *mutatis mutandis* basis on all the connected petitions.

2. The overarching factual matrix, enveloping the *lis* to be determined by this Court pertains to the issuance of show-cause notices under the provisions of the Rajasthan Land Revenue Act, 1956 (hereinafter referred to as "the Act of 1956"), more particularly under Section 90, 91A thereof, as well as under the Rajasthan Colonization Act, 1954 (hereinafter referred to as "the Act of 1954") more particularly under Section 20, and other enabling provisions of the relevant statutory framework. By way of the impugned notices, it has been alleged that the petitioners and similarly situated persons, who are operating *Madrasas*, *Masjids*/Mosques, and *Dargahs*, are conducting such activities, have erected permanent constructions, without any valid permission or authorization, and are in unauthorized occupation of Government land/agricultural land, without requisite sanction, approval, or lawful conversion, as per the legal framework. It is



further alleged by the respondents that the said structures/properties are located within a range of 0–50 kilometers from the international border (Indo-Pak Border), falling within a notified or prohibited zone, and have been established without due permission. The respondents have primarily contended that on the basis of available records, documentary material, complaints, and inputs purportedly received through intelligence sources, the existence and operation of such structures may pose a threat to national security. In this backdrop, the respondents have proceeded to issue notices seeking vacation, resumption of possession, and consequential takeover of the subject properties.

3. Learned Senior Counsel appearing on behalf of the petitioners along with other counsel, advanced the *ad infra* preliminary submissions that:

3.1 That the petitioners represent the Samiti comprising the office bearers entrusted with the administration and management of the institution in question;

3.2 That the petitioner, in the lead matter, is serving as the Chairman/office bearer of Peer Mohammad Shah Jeelani Dargah, situated in District Jaisalmer.

3.3 That the said Dargah has been in existence since several decades and holds significant religious and cultural importance, attracting devotees cutting across all communities.

3.4 That a duly constituted Society has been established for the purposes of managing and administering the affairs of the Dargah. Under the aegis of the said Society, two Urs festivals are organized annually, which witness substantial public participation,



and for which requisite permissions have consistently been granted by the District Administration.

3.5 That the Dargah is situated adjacent to a land forming part of a Kabristan, and in this regard, the concerned Gram Panchayat, vide resolution dated 30.10.2021, had proposed allotment of three bighas of land in favour of the Dargah, which proposal, however, remains pending consideration till date.

4. It was further contended that on 14.06.2026, a declaration was made by the Hon'ble Home Minister, Government of India, to the effect that structures falling within a radius of 15 kilometers, which was subsequently extended to 50 kilometers from the international borders of Indo-Pak, would be subject to vacation/eviction/demolition on grounds of national security, as even in past decade the said area has been an area of crucial and sensitive importance. According to learned senior counsel, the impugned notices have been issued in the backdrop of the said declaration, ostensibly invoking the provisions of the Act of 1956, and the Act of 1954. It was further submitted that several structures situated within the 0-50 kilometer belt have already been demolished, and numerous notices have been issued in furtherance thereof, thus, leaving the petitioners with an apprehension that their premises might also be demolished.

5. Assailing the action of the respondents, learned Senior Counsel had vehemently contended that the impugned exercise is vitiated by arbitrariness and is in flagrant disregard of the settled position of law, as the respondents have acted in a predetermined and autocratic manner with the sole objective of effecting demolition of the properties/construction of the petitioners, while bypassing the binding directions issued by the Hon'ble Supreme



Court in **Re: Directions in the Matter of Demolition of Structures**, reported in **2024 SCC OnLine SC 321**. It was submitted that neither adequate show-cause notices have been served, nor has any meaningful opportunity of personal hearing been afforded to the petitioners. It is further submitted that the statutory mandate under the Act of 1956, particularly Section 90A thereof, has not been adhered to in its true letter and spirit. It was contended that the legislative intent underlying Section 90A is not merely regulatory but also facilitative, inasmuch as it enables regularization of land use, subject to satisfaction of statutory conditions. The provision vests the competent authority with discretion to examine the nature of occupation, the character of land, and surrounding circumstances, and to pass appropriate orders either permitting conversion or otherwise, in accordance with law.

6. It was further urged that the drastic and coercive measures of eviction, demolition, or dispossession cannot be resorted to as a matter of first instance, in derogation of the statutory framework, particularly when the statute itself envisages a curative and regularizing mechanism. The omission to consider the applicability of Section 90A and the failure to afford the petitioners an opportunity to avail the benefit thereof renders the impugned action arbitrary, disproportionate, and violative of the principles of natural justice. Thus, the impugned proceedings stand vitiated for non-compliance with the statutory scheme under Section 90A, which mandates a structured, fair, and reasoned exercise of power before any adverse action affecting civil rights in immovable property is undertaken.



7. Learned senior counsel appearing for the petitioners had further submitted that the replies filed by the Union of India as well as the State Government are ambiguous, self-contradictory, and lacking in material particulars. It was contended that the plea of availability of an alternate remedy, as canvassed by the learned Advocate General and the learned Additional Solicitor General, is illusory and untenable in the facts of the present case; and that service of notices by way of *chaspā*, sans resorting to registered post or any other legally recognized mode, is *per se* illegal and contrary to due process. Further, the grant of unreasonably short timelines for compliance, in the given factual matrix, is also assailed as arbitrary and violative of principles of fairness. It was further contended that the stance adopted by the respondents in the show-cause notices, vis-a-vis those taken in the replies filed before this Court, particularly on the aspect of national security, are mutually inconsistent, thereby rendering the entire action suspect and unsustainable.

8. Learned senior counsel further contended that where proceedings are initiated under the Act of 1956 and the Act of 1954, the authorities are duty-bound to adhere to the prescribed statutory procedure and the principles of natural justice, which mandate issuance of proper notice, grant of reasonable opportunity, and passing of reasoned orders, which stand conspicuously absent in the present case. Learned senior counsel while fairly conceding that in matters involving a question of national security, the principles of natural justice may not be applied in their strictest amplitude, submitted that even in such cases, the authorities must possess a 'reason to believe' founded upon cogent material, including credible evidence, documents, and

intelligence inputs, before initiating coercive measures against any citizen. It is urged that in the absence of such foundational material, drastic actions such as eviction, demolition, or takeover of property cannot be sustained in law. It was further submitted that the present case is not an isolated instance, and as per the information available to the petitioners, show-cause notices have been issued in respect of approximately 180 properties within the concerned belt.

9. In support of the contentions made insofar, learned counsel had placed reliance upon the dictum enunciated in **Union of India v. State of Gujarat (SLP No. 8519/2006)**, **Abdul Khalek & Ors. v. State of Assam & Ors. : 2026 INSC 140**, **In Re: Manoj Tibrewal Akash : 2024 SCC OnLine SC 3210**, and **Re: Directions in the Matter of Demolition of Structures : (2025) 5 SCC 1**, wherein comprehensive directions have been issued governing demolition of structures. It was submitted that the Apex Court has, *inter alia*, mandated that no demolition shall be undertaken without issuance of prior show-cause notice, grant of a minimum period of fifteen days (or more) to respond, affording an opportunity of hearing, conducting proper survey and demarcation, recording reasons, videographing the process, and providing adequate time to the affected parties to avail legal remedies. Learned Senior Counsel had stoutly contended that, despite the aforesaid authoritative pronouncements, no policy has been framed by the respondents till date, nor have the binding guidelines laid down by the Hon'ble Supreme Court been adhered to. It was further contended that a large number of notices have been issued within a compressed time frame in a mechanical and premeditated manner, thereby lending credence to the petitioners'

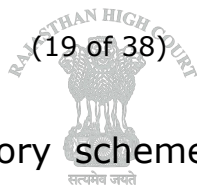


grievance that the entire exercise is arbitrary and actuated by a predetermined objective.

10. Other learned counsel appearing in connected matters have adopted and endorsed the submissions advanced by the learned Senior Counsel, reiterating that the impugned action suffers from procedural impropriety, non-application of mind, and violation of settled legal principles.

11. *Per contra*, learned Advocate General, learned Additional Solicitor General, and learned Additional Advocate General, appearing for the respondents, have vehemently raised a preliminary objection as to the maintainability of the present batch of writ petitions. It was contended that the issues sought to be agitated namely, the title of the subject properties, the very existence and status of the *Dargah*, Mosque, and *Madrasa*, as well as the absence of requisite permissions and supporting documentation, constitute seriously disputed questions of fact, which are not amenable to adjudication in writ jurisdiction under Article 226 of the Constitution of India. It was further submitted that the petitioners lack *locus standi* to maintain the present proceedings, inasmuch as they have failed to establish their identity, authority, or legal capacity to represent the concerned institutions; and in the absence of any valid authorization, resolutions of the alleged committees or societies, or documentary substantiation, the petitions are stated to be inherently defective and liable to be dismissed on this ground alone.

12. Learned counsel for the respondents have next submitted that the impugned notices have been issued under the Act of 1954, and the Ac of 1956, both of which provide a complete and efficacious statutory mechanism for redressal of grievances. It was



contended that the statutory scheme envisages a hierarchy of remedies, whereby the aggrieved party may approach the competent authority, and thereafter avail appellate remedies before the Revenue Appellate Authority (hereinafter referred to as 'RAA'), with a further remedy before the Board of Revenue. Thus, in view of the availability of such alternate remedies, the present writ petitions are not maintainable.

13. It was further contended that it is an admitted position that show-cause notices were duly issued to the petitioners and an opportunity of personal hearing was afforded to them; however, the petitioners failed to avail the same. Likewise, the petitioners submitted that they are apprehending demolishing proceedings, however, have failed to bring on record any such authentic data. It was contended that the petitioners have not disclosed their identity or ownership/management credentials in most of the petitions, and in the absence of any responsible or authorized person available at the site to receive notices, the authorities were constrained to resort to service by way of *chaspa*, which is a recognized mode of substituted service under the circumstances.

14. Further, learned counsel appearing on behalf of the respondents have placed reliance upon the provisions of the Rajasthan Religious Buildings and Places Act, 1954 (hereinafter referred to as 'the Religious Places Act'), particularly Sections 5 and 6 thereof, to contend that prior permission of the District Collector is a mandatory prerequisite for establishment of any religious structure. However, in the present cases, no such permission has been obtained by the petitioners. Additionally, reliance was placed upon Section 139 of the Border Security Force Act, 1968 (hereinafter referred to as 'the Act of 1968') and the



notification issued in the year 2021, whereby specific powers and duties have been conferred upon the Border Security Force (BSF) with respect to areas falling within 0–50 kilometers from the Line of Control/International Border.

15. Learned counsel had emphatically submitted that the issue of national security is of paramount importance and must be approached with utmost sensitivity and circumspection, and thus, the principles of natural justice are not inflexible and may be suitably moulded in exigent circumstances, particularly where larger public interest and national security are at stake. Moreover, the respondents herein being instrumentalities of a welfare State, are under a constitutional obligation to safeguard the interests of the citizenry at large.

16. It was apprised to the Court that in the context of five border States, including Rajasthan, policy decisions have been taken on the basis of intelligence inputs, documentary material, and past incidents, including those relating to smuggling of contraband, arms and cross-border threats; thus, in light of the prevailing sensitive situation and disturbances with the neighbouring country, preventive and precautionary measures are imperative to ensure public safety. It was also submitted that the decisions with respect to structures situated in the border belt are not based on any rigid or straightjacket formula, but are founded upon material available on record and are taken on a case-to-case basis. Further, it was argued that even in such sensitive matters, show-cause notices have been issued and opportunities of hearing have been afforded to the petitioners to reflect and substantiate their bona fides, lawful possession, and construction on such land,



which is apparently a barren-scarcely populated land; however, the petitioners have not cooperated with the process.

17. In support of the submissions made insofar, reliance was placed upon the ratio enunciated in **(2023) 13 SCC 401 : Madhaymam Broadcasting Ltd. v. Union of India and ors.** to contend that in matters involving national security, there may be legitimate grounds for non-disclosure of certain information. While fairly conceding that complete abrogation of the principles of natural justice is impermissible, it was submitted that where sufficient material exists to form an opinion that disclosure would be prejudicial to national security, the application of such principles may be curtailed or suitably modified from the standpoint of a reasonable and prudent person; and that in the present matters, sufficient material existed prior to issuance of the notices.

18. Auxiliary, distinguishing the judgments relied upon by the petitioners qua demolition of religious structures, learned counsel has submitted that the same are inapplicable to the facts of the present case for the reasons noted hereinbelow:

18.1 That the present matters pertain to unauthorized constructions raised in violation of the Act of 1954, the Act of 1956, and other local laws, in respect whereof show-cause notices have been issued strictly in accordance with statutory provisions;

18.2 That no permission, as mandated under the Religious Buildings Act, has been obtained for establishment of the subject structures;

18.3 That the actions impugned herein are informed by considerations of national security, based on credible information



and policy decisions, in respect whereof the petitioners have failed to extend cooperation.

19. In summation, it was submitted that in matters involving disputed questions of fact, the respondents have taken appropriate action in accordance with law, and the petitioners have an adequate and efficacious alternate remedy available to them; and that due compliance with the principles of natural justice has been ensured, subject to necessary modifications warranted by considerations of national security, wherever there exists a reason to believe based on material on record.

20. In view of the aforesaid facts and circumstances, learned counsel for the respondents have prayed that the present writ petitions, being devoid of merit and not maintainable, deserve to be dismissed.

DISCUSSION, FINDINGS AND DIRECTIONS:

21. Upon according solicitous consideration to the rival contentions advanced by the learned counsel qua the substantive particulars delineated supra, and upon a meticulous scrutiny of the documentary evidence in conjunction with the governing legal tenets, and the judgments cited at the Bar, this court proceedeth to record its opinion, noteworthy record and adjudicatory determinations, ad-seriatim:

The line between safety and vulnerability is often a thin, trembling cord. When our borders become heavy with the breath of unease, the law cannot merely be a cold document, it must become the beating heart of our protection.

Sovereignty is not an abstraction; it is the collective, aching desire to keep our home whole, defended not by silence, but by a vigilant, sleepless love for the soil we walk upon.

We must understand that even stones placed in

the name of faith cannot hold sacred ground. Our land is a living testament to a shared promise, a Republic's covenant that demands, prioritizing the safety of the many over the quiet demands of the few.

True security is not a cage for the spirit; it is the soft, sturdy wall that allows freedom to sleep soundly at night. It is the embrace that keeps our liberty from being torn away by the winds of chaos. When the voice of our nation calls out, urgent, and true we must answer with a unified strength, understanding that the deepest devotion we can offer to our state, is commitment, and the sense of security, that our land shall always remain sans any bloodshed.

22. At the outset, it is observed that the petitioners have directly invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. Upon a careful scrutiny of the pleadings, this Court finds that the petitions suffer from inherent deficiencies, particularly with regard to *locus standi*, identity of the petitioners, and absence of cogent material establishing their nexus with the concerned *Masjid, Madrasa, or Dargah*, as no credible documents, resolutions, or authorizations from any legally recognized body or society have been placed on record, in most of the petitions.

23. Further, it stands admitted in several petitions that no permission, as mandatorily required under Section 5 and 6 of the Religious Buildings Act, was ever obtained for establishment of the religious structures, and no application seeking such permission was ever moved before the appropriate authority i.e. Collector. Consequently, the structures in question *prima facie* fall within the category of unauthorized and unpermitted constructions. For the sake of handiness the relevant provisions are reproduced hereinbelow:

"5. Restrictions on use of public places for religious purposes - (1) No person shall use any public place-



(a) *as a permanent religious place, or*

(b) *save with the previous written permission of the Collector obtained in the prescribed manner, as a temporary religious place.*

(2) *Nothing in this section shall apply to cremation grounds and burial places or to the holding of functions or the taking out of processions, in connection with deaths or marriages or to other purely social and secular functions or to religious processions.*

6. Constructions etc. of public religious buildings - (1) *No person shall, without first obtaining the written permission of the Collector-*

(a) *construct any public religious building; or*

(b) *convert any private or public building or place into a public religious building.*

Explanation. - The temporary use of a building or place for religious purposes on occasions such as Holi, Moharram and the like shall not be deemed to be the conversion thereof into a public religious building.

(2) *A person desirous of obtaining permission for any of the purposes mentioned in sub-section (1) shall first obtain permission from any local authority or officer having jurisdiction over the area where the building or place in question lies and thereafter such person shall apply to the Collector for the*

requisite permission in the prescribed manner."

(Emphasis supplied)

24. From the show-cause notices placed on record (Annexed in the petitions), issued under the Act of 1956 (particularly Sections 90-A and 91) and the Act of 1954 (Sections 14, 15, and 22), it is evident that issues pertaining to title, ownership, possession, and land use remain seriously disputed. In absence of documentary substantiation, these are pure questions of fact, which cannot be adjudicated in writ jurisdiction. It is also



noteworthy that the statutory framework provides a complete mechanism, including adjudication by the competent authority, followed by appellate remedies before the Revenue Appellate Authority and thereafter the Board of Revenue.

25. In the lead matter, there is a categorical admission on the part of the petitioners that show-cause notices were issued and an opportunity of personal hearing was afforded/ called for; thus, the notices, on a plain reading, do not direct demolition; rather, they merely call upon the petitioners to appear, explain their position, and place material on record. They further stipulate that in the event of non-appearance, ex parte proceedings may be initiated, and despite such opportunity, the petitioners have consciously chosen not to participate in the proceedings before the competent authority and have instead rushed to this Court. Consequentially, it is significant that the apprehension of imminent demolition, as projected by the petitioners, is not substantiated by any material on record. Significantly, till date, no coercive action has been taken pursuant to the issuance of the show-cause notices, and the plea of threat perception is thus found to be misconceived and speculative. It is also an admitted position that the subject properties are situated within a belt of 0–50 kilometers from the international Indo-Pak border/Line of Control, an area which is undisputedly sensitive and strategically significant; and that the locations in question are remote, sparsely populated, and do not form part of any densely inhabited urban cluster, thereby heightening the need for vigilance and regulatory oversight. For

the sake of reference a few of the notices issued under various statutory guidelines, are reproduced hereinbelow:

"In SBCWP No. 13299/2026 Notice issued under Section 22 and 23/24 of Rajasthan Colonization Act, 1954

राजस्थान उपनिवेशन अधिनियम, 1954 की धारा 22 व सपठित धारा 23 व 24 के अधीन नोटिस
न्यायालय उपनिवेशन तहसीलदार मोहनगढ़ नं. 2 जिला जैसलमेर
(राजस्थान)

प्रकरण सं. — 118/26

वर्ष 2026-27

संवत् — 2083

राजस्थान सरकार बनाम :— प्रबंधक नूरानी मस्जिद कमेटी, बूगल की ढाणी सदराऊ तह. व जिला जैसलमेर

यतः आपने उपनिवेशन तहसील मोहनगढ़ नं. 02 के ग्राम बूगल की ढाणी सदराऊ के खसरा नम्बर 862 की अनाधिकृत सरकारी भूमि जो माप से 2500 वर्ग फिट है, पर अतिचार करके अवैद्य मस्जिद का निर्माण किया है। उक्त भूमि प्रतिबंधित थाना क्षेत्र में स्थित है तथा निर्माण के समय जिला प्रशासन एवं इस विभाग से कोई अनुमति नहीं ली गई है। भारत पाक सीमा से 0 से 50 किलोमीटर की दूरी में स्थित है।

अतः जरिए नोटिस सूचित किया जाता है कि आप दिनांक 24.06.2026 से पूर्व उक्त भूमि को खाली कर दें अथवा स्वयं या प्लीडर द्वारा दिनांक 24.06.2026 को 10.00 बजे पूर्वाह्न न्यायालय उपनिवेशन तहसीलदार मोहनगढ़ नं. 2 में हाजिर हों। तथा हेतुक दर्शित करें कि आपको वहां से बेदखल क्यों न कर दिया जायें। आपसे यह हेतुक दर्शित करने की भी अपेक्षा की जाती है कि उक्त भूमि पर उक्त कृषि वर्ष के दौरान अतिचार करने के लिए आप पर क्यों न शास्ति अधिरोपित की जावें। एवं क्यों न अतिक्रमण के संबंध में राजस्थान उपनिवेशन अधिनियम 1954 की धारा 22 एवं राजस्थान भू राजस्व (अतिक्रमणियों के निष्कासन) नियम 1975 एवं अन्य नियमों के अन्तर्गत नियमानुसार कार्यवाही की जावें।

यह भी ध्यान रखें कि उक्त तारीख, समय तथा स्थान पर हाजिर होने में आपके असफल रहने पर उक्त मामला आपकी गैरहाजरी में विनिश्चित किया जावेगा।

यह नोटिस आज दिनांक 09.06.2026 को मेरे हस्ताक्षर और न्यायालय की मुद्रा से जारी किया गया।

तहसीलदार
उपनिवेशन तहसील
मोहनगढ़ नं.2

In SBCWP NO. 13243/2026 (Notice issued under Section 22 of Rajasthan Colonization Act, 1954):

राजस्थान उपनिवेशन अधिनियम, 1954 की धारा 22 के अधीन नोटिस

न्यायालय तहसीलदार रामगढ़-2 जिला जैसलमेर प्रकीर्ण मामला सं.
02/ सन् 2026 राज्य सरकार बनाम अध्यक्ष पीर मोहम्मद जिलानी की
दरगाह पुत्र शरीफ चक-87 LLB (IGNP) निवासी

अतः आपने चक-87 LLB (IGNP) क्र.सं. 193/57, 59 तहसील के
ग्राम चक-87 LLB (IGNP) क्र.सं. 193/57, 59 किला 22 to 27, 29 to
की अनाधिकृत सरकारी भूमि जो आप से ओदरघाट, 1 बड़ा हॉल, 2 कमरे
धर्मशाला तारबंदी लगावना, 5 शौचालय निर्मित

इसके द्वारा आपको नोटिस दिया जाता है कि आप दिनांक 27.06.
2026 से पूर्व खनन भूमि को खाली कर दें अथवा स्वयं या क्लिडर द्वारा
दिनांक 23.06.26 को 12 PM बजे पूर्वाह्न/अपराह्न हाजिर होंगे। तथा यह
हेतुक दर्शित करें कि आपको वहां से बेदखल क्यों न कर दिया जावे।
आपसे यह हेतुक दर्शित करने की भी अपेक्षा की जाती है कि उक्त भूमि
पर उक्त कृषि वर्ष के दौरान अतिचार करने के लिए आप पर वार्षिक
लगान या निर्धारण के 50 मुखे तक शास्ति वर्षों न अधिरोपित की जावे।

यह ओर ध्यान में रख कि आपने इसी भूमि पर कृषि वर्ष में भी
अतिचार किया था। यह नोटिस आपको वर्ष में पश्चात्वर्ती अतिचार करने
की बाबत दिया जा रहा है। आपसे यह हेतुक दर्शित करने की आपको
तीन माह की अवधि के लिए क्यों नहीं सिविल करावर सुपुर्द कर दिया
जाय तथा वार्षिक लगान या निर्धारण जैसी भी स्थिति हो के 50 गुणा तक
की शास्ति का संवाद करने की अपेक्षा की जाती है।

यह भी ध्यान रखें कि उक्त तारीख, समय तथा बचाव पर हाजिर
होने में आपके असफल रहने पर उक्त मामला आपकी गैरहाजरी में
विनिश्चित किया जावेगा।

आज दिनांक 12.06.26 को मेरे हस्ताक्षर और न्यायालय की मुद्रा से
किया गया।

**In SBCWP NO. 13308/2026 (Notice issued under Section
90A of the Land Revenue Act, 1956):-**

न्यायालय तहसीलदार/ नायब तहसीलदार गडरारोड़, जिला बाड़मेर

प्रकरण संख्या :-26/2026

नोटिस

(राजस्थान भू-राजस्व अधिनियम, 1956 की धारा 90 ए के अंतर्गत)

प्रति,

श्री / श्रीमति जमालुदीन पुत्र सालार, जाति-मुसलमान, नि० देताणी
वगैरा (संलग्न जमाबंदी अनुसार) तह० गडरारोड़

जहां यह प्रतिवेदित किया गया है कि ग्राम देताणी, तहसील गडरारोड़
स्थित खसरा नम्बर 2482 रकबा 3.2941 हैक्टेयर अतिक्रमित रकबा
12000 वर्गफीट भूमि, जो आपके खातेदारी अधिकार में दर्ज है, पर एक
मस्जिद / मदरसा निर्मित या सापित पाई गई है।

हल्का पटवारी राजासर द्वारा प्रस्तुत निरीक्षण प्रतिवेदन एवं उपलब्ध अभिलेखों के अवलोकन में प्रथम दृष्टया यह प्रतीत होता है कि उक्त भूमि का उपयोग मूल प्रयोजन से भिन्न रूप में किया जा रहा है तथा इस संबंध में सक्षम प्राधिकारी की स्वीकृति/अनुमति अभिलेख पर उपलब्ध नहीं है।

अतः आपको यह अवसर प्रदान किया जाता है कि दिनांक 23-6-26 को स्वयं अथवा अपने अधिकृत प्रतिनिधि के माध्यम से उपस्थित होकर अपना पक्ष प्रस्तुत करें तथा संबंधित दस्तावेज / अनुमतियां प्रस्तुत करें।

यदि निर्धारित अवधि में आपका उत्तर प्राप्त नहीं होता है अथवा आप उपस्थित नहीं होते हैं, तो उपलब्ध अभिलेखों एवं तथ्यों के आधार पर एकपक्षीय कार्यवाही की जाएगी, जिसकी समस्त जिम्मेदारी आप स्वयं की रहेगी।

नोटिस आज दिनांक 18-6-26 को मेरे हस्ताक्षर और न्यायालय की मुद्रा से जारी किया गया।

तहसीलदार

IN SBCWP NO. 14231/2026 (Notice issued by Gram Panchayat Samiti):

कार्यालय ग्राम पंचायत सम पंचायत समिति सम, मुंजैसलमेर

कमांक/पंचायत/2026/58 दिनांक 27 जून 2026

:: नोटिस ::

यतः ग्राम पंचायत सम के राजस्व ग्राम सम में एक इमारत जो कि बिना किसी पट्टे या वैद्य दस्तावेज के निर्मित है, के सम्बन्ध में किसी के पास रजिस्ट्रेशन, अनुमति, वैद्य दस्तावेज पट्टा इत्यादि दस्तावेज उपलब्ध हो तो सात दिवस के भीतर ग्राम पंचायत सम में प्रस्तुत करें, अन्यथा उक्त इमारत को हटाने की नियमानुसार कार्यवाही की जावेगी !

ग्राम विकास अधिकारी

ग्राम पंचायत सम,"

26. At this juncture, reliance can be placed upon the ratio encapsulated in **Madhaymam Broadcasting Ltd. (supra)**, to substantiate the view of this Court that in matters pertaining to national security, the principles of natural justice may not be applied in their strictest form, this Court is covenant with the



proposition that while complete abrogation of natural justice is impermissible, its application is not rigid or straitjacketed.

"Liberty thrives in the shadow of law, but the sovereignty of a nation survives on the vigilance of its guardians."

Thus, in cases involving national security, confidentiality of inputs, intelligence considerations, and urgency of action may legitimately warrant a calibrated or partial exclusion of such principles. In the present case, it is evident that the doctrine of *audi alteram partem* has, in fact, been substantially complied with, as the show-cause notices have been issued, opportunity of hearing has been afforded, and sufficient time has been granted. Contrary to the same, the petitioners, by their own volition, have elected not to avail such opportunity. Therefore, having failed to participate in the statutory process, they cannot now be permitted to invoke writ jurisdiction on the ground of violation of natural justice. Nevertheless, it is a thought deeply ingrained in the consciousness of every citizen of this nation that when the security of the State is at stake, the rigidity of procedure must yield to the imperative necessity of protection. The relevant extract from **Madhaymam Broadcasting Ltd. (supra)**, is reproduced hereinbelow:

"39. The principle of natural justice that is derived from common law has two primary facets- Audi Alterum Partem and Nemo Judex In Causa Sua. Audi Alterum Partem encapsulates the rule of fair hearing. Nemo Judex In Causa Sua encapsulates the rule against bias, that is, no person should be a judge of their own case. It is the case of MBL that MIB did not comply with the principle of Audi Alterum Partem

because the reasons for the denial of security clearance and the material relevant to the decision of revocation were not disclosed. This, it is argued, infringes upon the right of MBL to a fair hearing. On the other hand, MIB contends that it was not required to comply with the principles of natural justice since the denial of security clearance is on a matter involving national security, which is an established exception to the application of the principles of natural justice.

40. There are three important considerations that have to be answered in the context:

40.1 Whether **the non-disclosure of reasons and relevant material for the decision to deny security clearance infringes upon the right to a fair hearing**, that is protected under Article 14 and 21;

40.2 **Whether the infringement of the right to a fair hearing would render the decision void**; and

40.3 **If considerations of national security are an established exception to principles of natural justice, how should the court resolve the competing interests represented by the principles of natural justice and national security.**

.....

77. It must be noted that this Court in *Ex-Armymen's Protection Services (supra)* referred to a series of judgments from the Courts in the United Kingdom to elucidate the principle that the government is best placed to decide whether national security concerns are involved; and that principles of natural justice may not be complied with when issues of national security are involved. The evidentiary principle laid down by the Courts in the United Kingdom needs to be elucidated in order to understand the scope of the observations in *Ex-Armymen's Protection Services*.



.....

96. The issue is not whether the inference that national security concerns are involved is judicially reviewable. It is rather on the standard of proof that is required to be discharged by the State to prove that national security concerns are involved. It is necessary that we understand the meaning and implications of the term national security before embarking on an analysis of the issue.

99. Thus, the expression national security does not have a fixed meaning. While courts have attempted to conceptually distinguish national security from public order, it is impossible (and perhaps unwise) to lay down a text-book definition of the expression which can help the courts decide if the factual situation is covered within the meaning of the phrase. The phrase derives its meaning from the context. It is not sufficient for the State to identify its purpose in broad conceptual terms such as national security and public order. Rather, it is imperative for the State to prove through the submission of cogent material that non-disclosure is in the interest of national security. It is the Court's duty to assess if there is sufficient material for forming such an opinion. A claim cannot be made out of thin air without material backing for such a conclusion. The Court must determine if the State makes the claim in a bona fide manner. The Court must assess the validity of the claim of purpose by determining (i) whether there is material to conclude that the nondisclosure of the information is in the interest of national security; and (ii) whether a reasonable prudent person would arrive at the same conclusion based on the material. The reasonable prudent person standard which is one of the lowest standards to test the

*reasonableness of an action is used to test national security claims by courts across jurisdictions because of their deferential perception towards such claims. This is because courts recognise that the State is best placed to decide if the interest of national security would be served. The court allows due deference to the State to form its opinion but reviews the opinion on limited grounds of whether there is nexus between the material and the conclusion. **The Court cannot second-guess the judgment of the State that the purpose identified would violate India's national security. It is the executive wing and not the judicial wing that has the knowledge of India's geo-political relationships to assess if an action is in the interest of India's national security.***"

(Emphasis supplied)

27. Further, the notification dated 11.10.2021 issued by the Ministry of Home Affairs, Government of India, in exercise of powers conferred under Section 139 of the Border Security Force Act, 1968, assumes significance in the present matters, as by virtue of the said Gazette Notification No. 3853: CG-DL-E-11102021-230337, the Central Government has enhanced and rationalized the territorial jurisdiction and operational powers of the Border Security Force in border areas, including regions extending up to 50 kilometres from the International Border. The said notification reflects a conscious policy decision taken at the highest level, having regard to the prevailing security scenario, intelligence inputs, and the need for effective prevention of trans-border crimes such as smuggling, infiltration, and other activities prejudicial to national security. Thus, any administrative or regulatory action undertaken by the competent authorities within the notified zone, particularly in relation to unauthorized



constructions or activities, is required to be viewed in the backdrop of the enlarged statutory framework and heightened security considerations. The exercise of such powers cannot be construed in isolation but must be appreciated as part of a coordinated national effort to safeguard territorial integrity and public order.

27.1 This Court places on record its appreciation for the notification issued by the Ministry of Home Affairs dated 11 October 2021, which reflects a considered and bona fide exercise of statutory powers in the interest of national security and public safety. The decision to enhance and rationalize the jurisdiction of the Border Security Force in sensitive border areas manifests a proactive and well-calibrated approach to address emerging security challenges, including infiltration, trans-border crimes, and other threats to the sovereignty and integrity of the nation. Such measures, undertaken in good faith and backed by legislative authority, demonstrate the commitment of the State to safeguard its territorial integrity while ensuring that governance remains responsive to evolving ground realities. The notification, therefore, deserves due acknowledgment as a step taken in larger public interest, reinforcing the constitutional duty of the State to protect the nation and its citizens.

28. This Court further finds that the attempt to attribute a communal colour to the impugned action is wholly misplaced and devoid of factual foundation. The material placed on record indicates that notices have been issued across the board, without reference to any particular community, wherever structures are found to be unauthorized and situated within the sensitive border



belt. Thus, it has to be made cautiously unambiguous that the issue at hand is one of national security and regulatory compliance, and not of religious discrimination. Moreover, during the course of hearing, the petitioners themselves conceded that in situations involving a threat to national security, appropriate action may be undertaken by the competent authorities. At the same time, it is neither prudent nor desirable to disclose sensitive intelligence inputs in open proceedings, as such disclosure may synonms itself compromise security interests.

29. Further, it is noteworthy that the judgments relied upon by the petitioners, pertaining to demolition of structures in other contexts, including religious bodies or alleged arbitrary bulldozing, stand on a completely different footing and are clearly distinguishable for the reasons delineated *ad infra*, as the present matters arise in the backdrop of national security considerations; the properties in question are situated within a highly sensitive border zone; admittedly, no permissions have been obtained under the Act of 1954 or other applicable laws; the show-cause notices have been issued, and opportunity of hearing has been granted; no demolition or coercive action has been undertaken till date; no cogent material has been placed on record to substantiate allegations of targeted or discriminatory action. Notably, in **Abdul Khalek & Ors. (supra)** the issue before the Court pertained to the properties/encroachers residing inside a land belonging to forest department, and in **Re: Directions in the Matter of Demolition of Structures (supra)**, the same pertained to use of bulldozers upon the land/property belonging to criminals/convicts/accused, and thus, even in the wildest dreams,



the same cannot be kept at the same pedestal at that of the present case, where the property in question is in vicinity of international border and the issue is of national security. Thus, the reliance placed on such precedents is misconceived.

30. At this juncture, reliance can be placed upon the ratio encapsulated in **Executive Engineer, Bihar State Housing Board v. Ramesh Kumar Singh : (1996) 1 SCC 327**, wherein the Hon'ble Supreme Court has categorically ruled that High Courts should not entertain writ petitions filed under Article 226 of the Constitution against mere show-cause notices; and that a party must instead avail of the alternate remedy and respond directly to the competent authority. It is also significant that the Hon'ble Supreme Court has time and again, by a catena of judgments, emphasized that public roads or sensitive areas are not private property; maintaining a zero-tolerance policy, declaring that religious sentiments cannot justify impeding public infrastructure, safety, or development. Withal, in the ratio encapsulated in **Council of Civil Service Union v. Minister of Civil Service : 1985 AC 374**, it has been categorically held that strict observance of the principles of natural justice may not be possible when national security is involved.

31. This Court also notes that the statutory scheme under Sections 90-A and 91 of the Act of 1956, coupled with the provisions of the Act of 1954, provides an adequate and efficacious remedy to the petitioners. The writ petitions, therefore, are not maintainable at the stage of show-cause notices, particularly when disputed questions of fact are involved and statutory remedies remain unexhausted.

32. This Court is of a stout view, as delineated hereinbelow:

जब सीमा पर सन्नाटा भी खतरे की भाषा बोलता है,
तब राष्ट्रधर्म हर विधि से ऊपर मोलता है।

न मंदिर, न मस्जिद, न कोई दीवार बड़ी होती है,
जब मातृभूमि की रक्षा की बारी खड़ी होती है।

जो भूमि है राष्ट्र की, वह पहले राष्ट्र की ही रहेगी,
हर ईंट उसी से पूछेगी, किसकी आज्ञा सहेगी।

आस्था का सम्मान रहे, पर नियमों का भी मान रहे,
जहाँ सुरक्षा का प्रश्न उठे, वहाँ राष्ट्र प्रधान रहे।

क्योंकि सीमाओं की रक्षा में ही स्वतंत्रता का विस्तार है,
और राष्ट्र की सुरक्षा ही हर नागरिक का संस्कार है।

निज स्वार्थ, न निज पहचान, न कोई भेद-विभाजन हो,
जब देश पुकारे, तब केवल राष्ट्र ही आराधन हो।

Thence, this Court holds that in matters involving national security, strict adherence to the traditional rigours of natural justice is not always warranted, and a pragmatic, situation-responsive approach is permissible, provided that there exists material justifying such action. In the present case, sufficient procedural compliance has been made, and no prejudice can be said to have been caused to the petitioners, who themselves have abstained from participation. Accordingly, the writ petitions are held to be not maintainable and are liable to be **dismissed**.

33. However, before parting away, it is extremely essential to delineate certain supplementary observations, directions, and the same are therefore being noted *ad infra*:

33.1 Considering the element of national security, issues arising therefrom, and auxiliary issues, a Committee comprising the District Collector, Superintendent of Police, and representative of the Border Security Force (BSF) of the area concerned, shall be



constituted to examine cases (on individual basis) involving sensitive properties;

33.2 In the foregoing backdrop, the constitution of a Committee comprising, *inter alia*, an officer of the Border Security Force ensures that any decision taken is informed by relevant intelligence, ground realities, and security considerations. Accordingly, the said Committee is best placed to take an appropriate and reasoned decision in the matter, balancing individual rights with the overarching interest of national security; which shall suffice the principles of natural justice vis-a-vis the issue of threat to national security.

33.3 The said Committee shall take decisions on the basis of available material, evidence, intelligence inputs, and other relevant considerations, and shall be entitled to adopt a procedure commensurate with the exigencies of national security;

33.4 The Committee, in discharge of its mandate and having regard to the exigencies of the situation, may order eviction, dispossession, demolition, or adopt any other appropriate course of action, as deemed necessary, considering the material available, and as per the warrants of the situation and circumstances.

33.5 It is clarified that while principles of natural justice shall not be wholly dispensed with, their application may be suitably tailored, keeping in view the nature of the case, sensitivity involved, a threat to national security as alleged and larger public interest, as also categorically upheld in the ratio encapsulated in

Madhaymam Broadcasting Ltd. (supra), and fairly conceded by the parties herein.

34. In light of the above, the present batch of writ petitions stands **dismissed**. No order is made as to costs. Pending applications, if any, along with the stay applications, shall stand disposed.

35. A copy of the present judgment be also placed in the connected petitions.

(SAMEER JAIN),J

Pooja/-