IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6215 OF 2025

The Tata Power Company Ltd. & Anr. ... Petitioners
Versus
The State of Maharashtra & Ors. ... Respondents

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Mr. D. J. Khambata, Senior Advocate a/w Mr. Prateek Seksaria, Senior Advocate, Mr. Bhushan Deshmukh, Mr. Venkatesh, Mr. Karan Rukhana, Mr. Rohit Agarwal, Mr. H. N. Vakil, Mr. Samkit Shah, Mr.Farad Vakil, Mr. Ashutosh Srivastava, Mr. Syresth Sharma, Mr.Siddharth Nigotia, Mr. Ashirwad Sapre, Ms. Megha Chandu i/by Mulla and Mulla and Craigie Blunt & Caroe, for the Petitioners.

Mr. Shrihari G. Aney, Special Counsel (through V.C.) a/w Smt. Shruti D. Vyas, Addl. Govt. Pleader and Smt. G. R. Raghuwanshi, AGP, for Respondent Nos.1 to 4-State.

Mr. Chetan Kapadia, Senior Advocate a/w Mr. Yuvraj Singh and Ms.Shraddha Dube Patil i/by Jay & Co. for Respondent No.5-MIDC.

Mr. Anil Anturkar, Senior Advocate a/w Mr. Abhishek Salian, Ms.Srushti Thorat, Mr. Mayuresh Ingale, Ms. Kinnari Raut and Ms.Ayesha Dhorajiwala i/by Vidhi Partners for Respondent No.6.

Mr. Nitin Katore, Law Officer, MIDC, present.

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CORAM : MANISH PITALE AND
SHREERAM V. SHIRSAT, JJ.

RESERVED ON : 1st SEPTEMBER 2026
PRONOUNCED ON : 5th NOVEMBER 2026

JUDGEMENT (*Per Manish Pitale, J.*)

. The petitioner-Tata Power Company Limited (TPCL) has filed this writ petition aggrieved by notification issued by respondent-State under the provisions of the Maharashtra Industrial Development Act, 1961 (MID Act), declaring certain

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portion of the land forming part of Thokarwadi Dam and Reservoir concerned with the existing Bhivpuri Hydro Station of 75 MW and the proposed Bhivpuri Pumped Storage Project of 1000 MW of the petitioner-TPCL in District Pune, as an Industrial area. The declaration of the industrial area covering a part of the said land of the petitioner-TPCL and proposed acquisition of the same is for the benefit of respondent No.6-Maharishi Vedoddharak Foundation (MVF). The said respondent is already allotted about 126 hectares of land adjacent to the water body of the reservoir and by the impugned notification, a further area of about 84 hectares is sought to be allotted, which includes two land outcrops in the reservoir, concerning the said dam.

2. It is the case of the petitioner-TPCL that when the subject land was acquired and handed over to it more than a century ago for the specific public purpose of establishment of the hydro electric project, acquisition of a part of the same solely for the benefit of the respondent No.6-MVF, a private company, amounts to colourable exercise of power. It is alleged that the provisions of the statute for acquisition of land i.e. the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act of 2013) have been bypassed by deliberately taking recourse to the provisions of the MID Act and an ingenious 'pass through' method of acquisition has been undertaken, solely to benefit the respondent No.6-private company in a *mala fide* manner, while interfering

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with the land allotted to the petitioner-TPCL for the public purpose of the said hydro electric project. It is emphasized that the hydro electric station has been functioning for more than a century and recently, a more elaborate pumped storage project of 1000 MW is being established, which will be hampered by the proposed acquisition pursuant to the impugned notification issued by the respondent-State.

3. The respondent-State as well as the Maharashtra Industrial Development Corporation (MIDC) and the respondent No.6-MVF, on the other hand, claim that the portions of land that were allotted to the petitioner-TPCL, that remained unutilized, are sought to be acquired for the purpose of the 'Ultra Mega Project' of the respondent No.6-MVF. It is emphasized that the activity proposed to be undertaken by the respondent No.6-MVF is an industrial activity encompassing various activities, such as establishment of a wellness centre, an ayurvedic college and other infrastructure, which is for public good and in the process, employment for at least 1000 persons in the local area would be generated. It is submitted that in this scenario, the respondent-State has taken recourse to the statutory mechanism provided under the MID Act, in respect of which no *mala fide* can be alleged. It is submitted that all statutory safeguards have been followed, further indicating that the writ petition itself is pre-mature, as the proceedings are at the stage of the respondent No.3-Sub-Divisional Officer and Special Land Acquisition Officer (SDO), considering objections raised by the petitioner-TPCL in

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pursuance of notice issued under Section 32(2) of the MID Act. The objections raised by the petitioner-TPCL have been considered and the SDO has closed the matter for orders. In this situation, it is contended on behalf of the respondents that, the writ petition ought not to be entertained and that no case is made out in favour of the petitioner-TPCL.

4. In the light of the competing claims made by the petitioner-TPCL on the one hand and the respondents on the other, before considering the rival submissions on facts and law raised on behalf of the parties, it would be appropriate to refer to the chronology of events, leading to filing of the present writ petition.

CHRONOLOGY OF EVENTS

5. Between 1911 and 1930, 5 principal agreements and 9 separate Deeds of Conveyance were executed by the Secretary of State of India in Council and the predecessor of the petitioner i.e. the Tata Hydro Electric Power Supply Company Limited. These agreements and conveyance deeds were executed for transferring huge portions of lands, including the subject land, to the predecessor of the petitioner, for the purpose of construction of reservoir and dam, in order to collect and store supply of water, leading to execution of the hydro power project for generation of hydro electric power. Before undertaking the said act of acquisition of land for the hydro electric project and establishment of the Bhivpuri Hydro Station, statutory enquiry under Section 40

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of the Land Acquisition Act, 1894 (LA Act) was undertaken and the lands were acquired for the predecessor of the petitioner, for the said public purpose of generating hydro electricity.

6. The said agreements contained a clause that if at any time, any part or parts of the acquired land were not actually utilized or intended to be utilized for the said works, and if the State was of the opinion that such unutilized part or parts of acquired land were necessary for revenue administration or purposes connected with public health, safety or necessity, the State being the sole judge of such a necessity, such parts would be transferred to the State upon payment of compensation to the predecessor of the petitioner as per the provisions of the Land Acquisition statute. The lands forming subject matter of the 5 principal agreements and the 9 separate deeds of conveyance, including the land which is subject matter of the dispute in the present writ petition, were handed over to the predecessor of the petitioner and subsequently, came in possession of the petitioner-TPCL, wherein the hydro power project was executed.

7. The petitioner-TPCL emphasized on declaration of the said Thokarwadi Dam, on 23.05.1963, as a protected place under Rule 7 of the Defence of India Rules, 1962, preventing entry of unauthorized persons. Reliance was also placed on a notification dated 15.01.1972, whereby the said area in possession of the petitioner-TPCL was declared as a prohibited place under the provisions of the Official Secrets Act, 1923. This includes the

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Bhivpuri Hydro Station of petitioner-TPCL of 75 MW. On the basis of such declarations and notifications, the petitioner-TPCL claims that the subject lands are a security concern and that the respondents could not have casually taken recourse to the provisions of the MID Act, to acquire parts of the said lands, which according to the petitioner-TPCL are utilized for the existing Bhivpuri Hydro Power Station of 75MW and the proposed Bhivpuri Pumped Storage Project of 1000 MW. On the other hand, the respondents claim that such declarations and notifications are wholly irrelevant for the purposes of deciding the validity of the steps taken by the respondent-State and MIDC under the provisions of the MID Act.

8. The respondent-MIDC under the provisions of the MID Act carries out development on land acquired by the respondent-State Government and transferred to the MIDC. It then disposes of the same to persons as it considers expedient for achieving the purposes of the MID Act, or the MIDC disposes of such land, even without undertaking or carrying out any development thereon. In order to address situations wherein such land declared as an industrial area, acquired by the State and transferred to MIDC is to be allocated to a single industrial unit for a large industrial project, on 22.11.1993, the Board of Directors of the MIDC passed a Resolution, specifying the manner in which such allotment would be made on 'as is where is basis'. On 18.01.1994, the MIDC issued a Circular in the backdrop of the aforesaid Resolution passed by the Board of Directors on 22.11.1993. This

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became the basis for allotment of entire acquired piece of land to a single industrial unit. A Cabinet Sub-Committee was established comprising of the Chief Minister, Deputy Chief Minister, Minister of Finance and Planning and Minister of Industries, for taking decisions on matters regarding industrialisation in the State of Maharashtra.

9. On 27.12.2016, the respondent-State issued a Government Resolution (GR) prescribing a procedure for development of an integrated industrial area. The said GR stipulated that such proposals for development of integrated industrial areas, including allotment thereof to industrial units, should be submitted to a High Power Committee (HPC) for approval. The constitution of the HPC was specified and the procedure specified that only upon approval granted by the HPC, could a notification be published in the Government Gazette, declaring such land as an industrial area. The rival parties have addressed elaborate submissions on the said GR, particularly on the question as to whether such an approval could be said to be mandatory.

10. On 19.07.2017, the respondent No.6-MVF, a private company, sent a letter to the then Chief Minister of the State of Maharashtra, seeking various benefits for its proposed mega project, concerning a 'Centre for Perfect Health'. The respondent No.6-MVF claimed that the proposed project would be one of its kind where the knowledge of ancient vedas would be applied for an Ayurveda Medicine manufacturing facility, aroma oil

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manufacturing, a wellness centre with treatments and therapies, a training center for paramedical staff, an ayurveda college and hospital, research and development, organic agriculture, etc., all under one roof. It was claimed that the cost of all the said components of the project would work out to about Rs. 1000 crores and a request was made to give the project the status of Ultra Mega Project. The respondent No.6-MVF specifically sought permission for construction activity beyond 50 meters of the High Flood Line (HFL) of the said dam of the petitioner-TPCL.

11. On 08.03.2018, the respondent-State issued a GR, prescribing norms for carrying out development activities in and around dams, which provide downstream areas. The petitioner-TPCL relies on clause 2 of the said GR that prescribes prohibited zone of 500 meters from the HFL for industrial township development. On the other hand, the respondents rely upon clause 1(a) of the said GR to claim that the proposed project of respondent No.6-MVF is permissible as per the norms.

12. On 15.03.2018, the respondent-State granted the status of 'Ultra Mega Project' to the proposed integrated project of Centre for Perfect Health of respondent No.6-MVF, on the basis of fixed capital investment of Rs.500 crores. In this backdrop, on 02.04.2018, respondent No.6-MVF sent a letter to the petitioner-TPCL with regard to its intention of establishing the said project. Respondent No.6-MVF claimed that Thokarwadi lake/Dam of the petitioner-TPCL provided one of the most beautiful sites for the

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proposed centre, indicating that the waters of the lake were of special value for the proposed centre.

13. On 10.04.2018, a meeting was called under the Chairmanship of the Finance Minister of the respondent-State, with the representatives of the petitioner-TPCL and respondent No.6-MVF attending the meeting. The parties discussed various issues, particularly those concerning the said reservoir at Thokarwadi Dam owned by the petitioner-TPCL. On 05.05.2018, the respondent-State sent a letter to the petitioner-TPCL, making enquiries about the action taken on the issues discussed in the said meeting dated 10.04.2018 and called upon the petitioner to submit compliance report.

14. On 24.07.2018, the petitioner-TPCL responded to the letter dated 02.04.2018 of respondent No.6-MVF and expressed the need for detailed investigation and scrutiny of the status of the land outcrops and reservoir. It was indicated that the said outcrops were ecologically fragile and that they would fall within 'Ecologically Sensitive Zone'.

15. The petitioner-TPCL stated that it may not be advisable to permit any activity on the land outcrops, as it may affect the ecological integrity and biological diversity of the same. In response, on 18.08.2018, the respondent-MVF addressed a letter to the petitioner-TPCL, stating that for establishing the proposed project of the said respondent, large area of land overseeing Thokarwadi Dam was required along with the land outcrops in the

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reservoir. It was stated that the subject land was not declared as Ecologically Sensitive Zone by the Union of India and in this backdrop, respondent No.6-MVF requested the petitioner-TPCL to reconsider its stand in the matter. In the year 2018 itself, the Chief Minister of the respondent-State sent a letter to Late Mr. Ratan Tata, stating that the land outcrops (islands) on the reservoir/lake of Thokarwadi Dam being vacant, could be ideal for allowing vedic chanting by Pandits.

16. In the years 2018 and 2019, the petitioner-TPCL addressed communications to the concerned department of the Union of India for declaring the subject land as ecosensitive land, in order to prohibit any tourism activities. This was particularly in the backdrop of respondent No.6-MVF indicating that it was intending to undertake the exercise of boating in the lake waters as part of its project. On 09.08.2019, the respondent-State granted status of integrated industrial area to about 75 hectares of land and the respondent-MIDC was directed to take action as Special Planning Authority in respect of the said land under the provisions of the MID Act. The said piece of land had nothing to do with the subject land of the petitioner-TPCL, including the land outcrops / islands in the reservoir / lake.

17. The respondent-State constituted HPC for large and mega projects to consider individual cases for recommendation to the Cabinet Sub-Committee for providing concessions and incentives, where large investments were proposed. On 04.03.2021, the

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respondent-MIDC issued a notification introducing changes in the establishment of the Site Visit Committee for acquisition for industrial areas. On 14.10.2021, the respondent-State issued a notification declaring an additional area of about 53 hectares of land adjacent to the said Thokarwadi Dam of the petitioner-TPCL, as integrated industrial area. It is relevant to note that even this additional piece of land did not adversely affect the land of the petitioner-TPCL.

18. On 08.08.2023, the respondent-State executed a Memorandum of Understanding (MOU) with the petitioner-TPCL for establishing Bhivpuri Pumped Storage Project for generating 1000 MW electricity. This was in line with the initiative of the respondent-State to encourage non-conventional energy sources and for providing clean energy. This project is covered under the Pumped Storage Policy, 2023 (PSP) of the respondent-State. According to the petitioner-TPCL, since such a PSP Project requires an upper level and a lower level, wherein water released from upper reservoir to the lower reservoir is pumped back to the upper reservoir, the proposed acquisition of part of the lands of the petitioner-TPCL, including the said land outcrops in the reservoir, would adversely affect the PSP Project.

19. It is claimed by the petitioner-TPCL that while on the one hand, the respondent-State has entered into MOU with it for the Bhivpuri Pumped Storage Project of 1000 MW, but on the other hand, it has arbitrarily granted approval to handing over of part of

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land of the petitioner-TPCL to respondent No.6-MVF for its private project.

20. On 01.11.2023, the HPC held a meeting to specifically consider the demands of respondent No.6-MVF in respect of the said integrated mega project. One of the requests of the said respondent was that the specific parcels of land, including the land outcrops in the reservoir be arranged to be purchased from the petitioner-TPCL or appropriate instructions be given for acquisition of the lands through the Act of 2013 or by the 'pass through' method of the MIDC. The HPC rejected the request of the said respondent, stating that the Government did not have a policy to purchase land from a private company and to make it available for other projects. The petitioner heavily relies upon the said decision of the HPC.

21. In this backdrop, on 14.02.2024, the Cabinet Sub-Committee for the Department of Industries met under the Chairmanship of the Chief Minister, to discuss the said project of respondent No.6-MVF. It was decided that acquisition by 'pass through' method under the MID Act should be undertaken for acquiring portion of land-locked property of the petitioner-TPCL, adjacent to the project site along with two outcrops (islands) in the reservoir and the compensation cost be recovered from respondent No.6-MVF.

22. On 24.07.2024, in the light of the said decision of the Cabinet Sub-Committee dated 14.02.2024, the Land Selection

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Committee submitted a report and directed the respondent-MIDC to take further action for purchasing land from the petitioner-TPCL for the benefit of respondent No.6-MVF. The said Committee specifically recorded that it was necessary to obtain No Objection Certificate (NOC) from the petitioner-TPCL and it was indicated that the proposal for acquisition was being treated as acquisition by 'pass through' method.

23. In this backdrop, when the HPC held a meeting on 13.09.2024, it discussed the said report of the Land Selection Committee and granted in-principle approval to acquire the subject land of the petitioner-TPCL, subject to obtaining NOC from the petitioner-TPCL. But on 26.12.2024, when the respondent-MIDC submitted a proposal to the respondent-State for acquisition of lands by 'pass through' method, it was recorded that under the MID Act, there was no requirement to obtain consent or NOC from the land owners whose land was to be acquired.

24. It is in this backdrop that on 03.03.2025, the respondent-State, through the Department of Industries, exercised power under Section 1(3) of the MID Act, to issue the impugned notification, whereby 04.03.2025 was stipulated as the appointed date for declaring the subject lands in various villages of District Pune as 'industrial area'.

25. On 04.03.2025, the respondent-State, through Department of Industries, issued the impugned notification / GR authorizing

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the initiation of land acquisition proceeding for respondent No.6-MVF, whereby about 84 hectares of land of the petitioner-TPCL in the villages of Kiwale, Inglun and Vahangaon, was covered. Consequently, on 06.03.2025, the Collector, Pune issued a letter to the Sub-Divisional Officer (SDO), Maval-Mulshi, Sub-division Pune, authorizing the SDO to proceed further in the matter. Immediately, the respondent-MIDC issued a public notice on the notice board of respondent No.3-Land Acquisition Officer, regarding the proposed acquisition under Section 32 of the MID Act.

26. On 07.03.2025, the said respondent issued the impugned notices under Section 32(2) of the MID Act to the petitioner-TPCL to show cause in writing on or before 28.03.2025, as to why the lands of the petitioner-TPCL specified in the schedules appended to the notice, should not be acquired. The total area of the proposed acquisition was 84 hectares equivalent to about 208 acres.

27. In response, the petitioner-TPCL submitted its preliminary representation and sought personal hearing in the matter. In this backdrop, on 05.05.2025, the present writ petition was filed, challenging the said impugned notifications issued by the respondents. On 07.05.2025, a statement was made on behalf of respondent No.5 before this Court that while hearing before the concerned officer would continue, no decision would be taken in pursuance of the aforesaid show cause notice till the next date of

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hearing.

28. It is an admitted position that the said statement has continued to operate during the pendency of this petition. The said officer completed the hearing on 17.06.2025 and closed the matter for orders. This is the stage at which the proceedings remained during the pendency of this petition. The pleadings in the writ petition were completed and in the light of urgency projected on behalf of respondents, the petition was taken up for hearing and disposal.

SUBMISSIONS

29. Mr. Khambata, learned senior counsel appearing for the petitioner-TPCL submitted that the impugned notification issued with the intention of acquiring the subject land to the extent of 84 hectares belonging to the petitioner-TPCL, including the two lands outcrops in the reservoir/lake of Thokarwadi Dam, amounted to colourable exercise of power by the respondents. It was submitted that the subject lands are still being utilized for the public purpose of hydro electric project of the petitioner-TPCL, including the latest Bhivpuri Pumped Storage Project of 1000 MW. It was submitted that in such a situation, the respondent-State authorities and the respondent-MIDC could not be permitted to acquire the subject land of the petitioner-TPCL for handing it over to respondent No.6-MVF for the said project. It was emphasized that the utility of subject land for the petitioner-TPCL, in order to satisfy the public purpose of the hydro electric projects, was still

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alive and in such a situation, the impugned notifications deserve to be quashed.

30. In order to buttress the said submissions, the learned senior counsel for the petitioner-TPCL invited attention of this Court to the 5 principal agreements and 9 Deeds of Conveyance executed with the petitioner-TPCL between 1911 and 1940. Reliance was placed on recitals and various clauses of the said agreements to submit that the said lands handed over to the petitioner-TPCL were specifically for the said hydro electric power plants.

31. It was submitted that the relevant clauses in the said agreements and Deeds of Conveyance stipulated that in the event any part or parts of the lands acquired and handed over to the petitioner-TPCL for the public purpose of hydro electric power plants and projects, were not actually utilized or intended to be utilized for such public purpose, the respondent-State would be entitled to call upon the petitioner-TPCL in writing to transfer such unutilized parts of lands, if required by the State or by a local authority for the purpose of making a new public road or for any purpose related to public health, safety or necessity, with the Government being the sole Judge of such necessity. It was further stipulated that in the event such transfer was necessitated, the State would pay compensation to the petitioner-TPCL.

32. It was submitted that in the present case, as a matter of fact, there was no part of land of the petitioner-TPCL which had remained unutilized for the public purpose of hydro electric plants

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and projects. Therefore, the impugned action of the respondent-State authorities and respondent-MIDC is clearly in the teeth of the solemn agreements and Deeds of Conveyance executed in favour of the petitioner-TPCL. It was submitted that on this short ground, the writ petition deserved to be allowed.

33. It was further submitted that the proposed acquisition of land of petitioner-TPCL is *ultra vires* the provisions of the MID Act. It was emphasized that the said Act provides for acquisition of lands only for developing industrial areas for industrial purpose. It was submitted that since the petitioner-TPCL had already developed the subject lands and the same were being used for the hydro electric power plants, acquisition of such land of petitioner-TPCL, which could be said to be already utilized for industrial purpose or public purpose, amounted to an action violating the provisions of the MID Act.

34. Thereupon, the learned senior counsel appearing for the petitioner-TPCL referred to various provisions of the MID Act, including Section 2(g) defining industrial area, Section 2(h) defining industrial estate, Section 3 pertaining to the establishment of MIDC and power under Section 32 of the MID Act for acquiring lands in furtherance of the object of the said statute.

35. By referring to further provisions of the MID Act, such as Sections 36 and 39 thereof, it was stated that there was no provision in the said statute for acquisition of land for the benefit of and at the cost of a private company like respondent No.6-

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MVF. Reliance was placed on judgement of the Constitution Bench of the Supreme Court in the case of *Shri Ramtanu Co-operative Housing Society Limited and another vs. State of Maharashtra and others*, (1970) 3 SCC 323, to contend that under the MID Act, there was no procedure or provision for acquiring land for a company, in contradistinction to the provisions contained in the LA Act. It was emphasized that in the present case, since the acquisition is solely for the benefit of respondent No.6-MVF, which is a private company, recourse to MID Act was not available, thereby showing that the impugned notifications issued by the respondent-State deserved to be quashed.

36. It was further submitted that while the LA Act provided for a separate set of provisions under Part VII for acquisition of land for companies, even in the Act of 2013, specific provisions apply for acquisition of land for companies. Such provisions require a particular procedure to be followed. As opposed to this, the object of acquisition under the MID Act is for the purpose of developing industrial estates or industrial areas by the MIDC and land cannot be acquired for a company for private purpose. It was submitted that in any case, land already acquired for a public purpose cannot be acquired again by recourse to the provisions of the MID Act. In support of the said contentions, reliance was placed on judgement of the Supreme Court in the case of *V.K.M. Kattha Industries Private Limited Vs. State of Haryana*, (2013) 9 SCC 338 and judgement of the Madras High Court in the case of *Godrej & Boyce Mfg. Co. Private Limited Vs. SLAO*, (1968) SCC OnLine

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Mad.23.

37. It was highlighted that in none of the notices issued in the present case, was an assertion made that the subject lands acquired for and in possession of the petitioner-TPCL were unutilized. Yet in the reply affidavits to the writ petition, it was claimed that the subject land was unutilized. It is in this context that the learned senior counsel appearing for the petitioner-TPCL referred to Section 42A of the MID Act, which concerns acquisition of unutilized surplus lands in industrial areas for allotment to other industries. It was contended that if the case of the respondents was that the subject land had remained unutilized, the procedure under Section 42A of the MID Act ought to have been followed. In this context, it was submitted that with the MoU dated 08.08.2023 executed between the respondent-State and the petitioner-TPCL for establishing Bhivpuri Pumped Hydro Project of 1000 MW, the hydro electricity project had reached a stage of expansion, demonstrating that the entire land with the petitioner-TPCL, including the two lands outcrops in the reservoir / lake of Thokarwadi Dam, are very much required for the purpose of generating hydro electricity. Since renewable energy sources are the need of the present times, there is no question of the purpose for which the land was acquired and handed over to the petitioner-TPCL, being satisfied and in that context, the subject lands being branded as ‘unutilized ‘ or ‘not required’. Reference was made to the pleadings on record of the writ petition and the rejoinder affidavit supporting the said submissions.

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38. It was submitted that by taking recourse to the provisions of the MID Act and seeking to acquire the land for respondent No.6-MVF, a private company, for a private purpose, amounts to colourable exercise of power by the respondent-State and the MIDC. By referring to the repeated communications sent by the respondent No.6-MVF to the petitioner-TPCL as well as various authorities of the respondent-State, it was submitted that the respondent No.6-MVF requires the land only for aesthetic purposes. Merely because the said respondent claims that about 1000 jobs would be created, that in itself cannot be the basis to claim that the project of respondent No.6-MVF is for 'public purpose'. It was submitted that the said respondent did not even claim that the subject land of 84 hectares is so crucial that in the absence of the same, the project of the said respondent would fail. In this context, it was highlighted that land to the extent of 126 hectares adjacent to the Thokarwadi dam, is already handed over to the respondent No.6-MVF.

39. It was submitted that the respondents are not justified in relying upon Section 39(1)(a) of the MID Act to claim that acquisition for respondent No.6-MVF was being undertaken by the 'pass through' method. In this context, extensive reference was made to the provisions of the LA Act and the Act of 2013 to demonstrate as to the manner in which rigorous procedure was to be followed before acquiring land for a private company and the manner in which the compensation amount was to be arranged by such a company. As opposed to this, under the MID Act, no such

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provision exists and therefore, the respondents have illegally taken recourse to the 'pass through' method to benefit the respondent No.6-MVF, thereby showing colourable exercise of power.

40. On the aspect of 'eminent domain' forcefully argued on behalf of the respondent-State, it was submitted that the power of eminent domain is not absolute and whenever it is to be exercised, public purpose is to be demonstrated. In this context, the learned senior counsel appearing for the petitioner-TPCL referred to the judgements of the Supreme Court in the cases of *Charanjit Lal Chowdhury Vs. Union of India*, **(1950) SCC 833**; *Jilubhai Nanabhai Khachar Vs. State of Gujarat*, **(1995) Supp (1) SCC 596** and *Sooraram Pratap Reddy Vs. Collector*, **(2008) 9 SCC 552**.

41. On the proposition that the underlying purpose of land acquisition must be primarily public, with private interest being merely incidental, reliance was placed on judgements of the Supreme Court in the cases of *K. T. Plantation Private Limited Vs. State of Karnataka*, **(2011) 9 SCC 1**, *Dev Sharan Vs. State of UP*, **(2011) 4 SCC 769** and *Kolkata Municipal Corporation Vs. Bimal Kumar Shah*, **(2024) 10 SCC 533**. On the proposition that when State machinery is utilized for acquisition of land to benefit private entities, such exercise of power is rendered colourable and illegal, reliance was placed on judgements of the Supreme Court in the cases of *Rameshwar Vs. State of Haryana*, **(2018) 6 SCC 215**; *Patasi Devi Vs. State of Haryana*, **(2012) 9 SCC 503**; *Greater Noida Development Authority Vs. Devendra Kumar*, **(2011) 12**

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SCC 375 and *Uddar Gagan Properties Limited Vs. Sant Singh*, (2016) 11 SCC 378.

42. In support of the proposition that the power of eminent domain can be exercised for private entity only if necessary procedure prescribed in law is followed, reliance was placed on judgement of the Supreme Court in the case of *Royal Orchid Hotels Limited and another Vs. G. Jayarama Reddy and others*, (2011) 10 SCC 608. On this basis, it was submitted that even if power of eminent domain were to be exercised for a company, it must be demonstrated that the same is for public purpose. In the present case, the respondent No.6-MVF intends to set up a *Vedic* centre with ancillary activities and it already has 126 hectares of land for the said purpose and yet, it is insisting on having 84 hectares of land already being utilized by the petitioner-TPCL for the public purpose of hydro electric projects. On this basis, it was submitted that the power of eminent domain, in the facts of the present case, is being exercised in a *mala fide* manner, and therefore, the writ petition ought to be allowed.

43. It was further submitted that in the present case, the HPC had rejected the proposal. Although clearance from the HPC was mandatorily required as per GR dated 27.12.2016, the respondent-State continued to push for the said proposal in favour of respondent No.6-MVF, thereby demonstrating the arbitrary and *mala fide* manner in which the procedural safeguards devised by the State itself were violated, only to benefit respondent No.6-

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MVF. It was submitted that the respondent-State cannot claim that the Cabinet Sub-Committee could overrule the rejection by the HPC, as the same would render nugatory the requirements of GR dated 27.12.2016. It was also submitted that even the report of the Land Selection Committee of the MIDC dated 24.07.2024, which mandated a NoC to be obtained from the petitioner-TPCL, was violated in a most arbitrary manner, only to benefit respondent No.6-MVF.

44. It was further submitted that the respondents cannot claim that the present petition is either premature or that the grounds raised in this petition could be raised before the SDO in the proceedings pursuant to notice issued under Section 32(2) of the MID Act. This is because the SDO would not have the power to consider and pronounce upon the constitutional challenges raised on behalf of the petitioner-TPCL. In any case, when the Cabinet Sub-Committee had overruled the opinion of HPC itself, in the teeth of the mandatory requirement of GR dated 27.12.2016, an officer of the level of SDO would hardly be expected to consider the objections raised by the petitioner-TPCL.

45. In support of the proposition that in such cases, an authority like the SDO would proceed with a pre-determined mind and the hearing would be rendered an empty formality, reliance was placed on the judgements of the Supreme Court in the cases of *Siemens Limited Vs. State of Maharashtra*, **(2006) 12 SCC 33**; *Techno Prints Vs. Chattisgarh Textbook Corporation and another*,

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2025 SCC OnLine SC 343 and *Kedar Nath Yadav Vs. State of West Bengal*, **(2017) 11 SCC 601**. On this basis, the learned senior counsel appearing for the petitioner-TPCL submitted that the writ petition deserved to be allowed.

46. Mr. Aney, learned senior counsel appearing for the respondent-State authorities raised a preliminary objection with regard to the maintainability of the petition, stating that the same was premature as hearing before the SDO was completed and the matter was closed for orders. Statutory process was sought to be interdicted by the petitioner TPCL by rushing to the Writ Court. The learned senior counsel appearing for the respondent-State authorities submitted that the State has a sovereign power recognized in the Doctrine of Eminent Domain, which indicates a superior title of the State in respect of lands. Reliance was placed on the Superior Title Doctrine or the Paramount Lord Doctrine to claim that all land ultimately vests in the State.

47. It was submitted that in respect of lands, various recognized doctrines support the said concept of the 'superior title of the State' such as the Doctrine of Radical Title, Jura Regalia / Regalian Doctrine, Doctrine of Occupancy / Terra Nullius, Doctrine of Public Trust, Doctrine of Power of Takings and the Public Purpose Theory. By relying upon the said doctrines, it was submitted that the power of eminent domain can be exercised even without reference to specific legislations and that Statutes such as the MID Act, concerning acquisition of land merely display the power,

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while such Statutes cannot be the source of the power. It was emphasized that the inherent power of the State is never diminished and that, in any case, the State retains the power to acquire land for public purpose, including social purpose such as land reform, urban planning etc. On this basis, it was submitted that the petitioner-TPCL was wrongly seeking to limit the power of the respondent-State. In the context of the said submissions, reliance was placed on judgements of the Supreme Court in the cases of **Sooraram Pratap Reddy Vs. Collector** *(supra)*, **Kedar Nath Yadav Vs. State of West Bengal** *(supra)* and *State of Bihar Vs. Sri Kameshwar Singh*, **(1952) 1 SCC 528**.

48. It was submitted that the contention of the petitioner-TPCL about colourable exercise of power is based on submissions pertaining to malice in law and malice in fact. It was submitted that the contentions pertaining to the subject acquisition being outside the scope of the provisions of the MID Act; it being particularly contrary to Section 42A of the MID Act and subject land already allotted to the petitioner-TPCL for industrial or public purpose, were based on misunderstanding of the concept of acquisition under the MID Act. It was further submitted that the MID Act is a special Statute, which expressly gives power to the MIDC to acquire lands for the purposes of the Act for establishing or expanding industrial areas. In the present case, the respondent No.6-MVF proposed an ultra mega project with investment of more than Rs.500 crores to set up its project. This clearly qualifies as an industrial project with all attendant benefits, including

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generation of substantial employment in the region. The State is clearly entitled to take a decision on the nature of public purpose served by the proposed project of respondent No.6-MVF and in that context, recourse to the provisions of the MID Act is clearly justified. In such a situation, the petitioner-TPCL cannot insist that the object of public purpose will be achieved only if the State takes recourse to the general Statute for land acquisition like the Act of 2013. The State is well within its powers to take recourse to the MID Act, because the source of the power is not the Statute but the underlying sovereign power under the Doctrine of Eminent Domain.

49. It was submitted that the opinion of one of the learned Judges (Arun Mishra, J.) in the judgement of the Supreme Court in the case of **Kedar Nath Yadav Vs. State of West Bengal** *(supra)* clearly put an end to the debate as to whether industry could be said to be public purpose. Reliance was also placed on judgement of the Supreme Court in the case of *Hindustan Petroleum Vs. Darius Shapur*, **(2005) 7 SCC 627**. It was submitted that acquisition under the MID Act for a private company like the respondent No.6-MVF was clearly valid if the project to be undertaken by such a private company served public purpose. The infrastructure development along with generation of employment due to the huge investment being made by the respondent No.6-MVF clearly demonstrate the public purpose and hence, the contentions raised on behalf of the petitioner-TPCL in this context deserve to be rejected.

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50. Reliance was also placed on the observations made by the Supreme Court in the case of **Sooraram Pratap Reddy Vs. Collector** *(supra)* in this context. It was further submitted that even the Act of 2013 provides for acquisition for private companies as also for Public Private Partnership projects, while the entire emphasis in the MID Act is on industrial undertakings in the public, private and Government sectors. On this basis, it was submitted that the contentions raised on behalf of the petitioner-TPCL regarding colourable exercise of power and malice in law deserve to be rejected. As regards the contention of the petitioner-TPCL on malice in fact, it was submitted that the said submissions were based on a misunderstanding of the role of the HPC in the context of GR dated 27.12.2016. It was submitted that the opinion of the HPC was only recommendatory in nature and certainly not mandatory. The Cabinet Sub-Committee, being a superior authority in the hierarchy of the State, correctly noted that the opinion of the HPC was based on a misunderstanding of the position of law. Hence, the same was corrected and the notifications were issued.

51. It was submitted that the petitioner-TPCL was clearly not justified in referring to Section 42A of the MID Act, because Section 32 thereof is a complete Code in itself and it provides, both, the power and the procedure for acquisition of land. It was asserted that this was not a case of surplus land of the petitioner being acquired and hence, Section 42A of the MID Act does not apply to the facts of the present case. It was further submitted that

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since all necessary clearances were obtained for the proposed project of the respondent No.6-MVF, the contentions regarding fragile ecology of the subject land, particularly the two land outcrops in the reservoir / lake of Thokarwadi Dam, are wholly misplaced and do not deserve any consideration.

52. As regards the criticism of the 'pass through' method, it was submitted that the said method or mode is used only when the State does not retain the acquired land for its own use, but the power of eminent domain is exercised to acquire private land, to be given to a third party, which could be a statutory corporation or a private company or a Public Private Partnership entity. Such an acquisition is undertaken through an agency like the MIDC under the MID Act. It was submitted that so long as the procedure prescribed under the MID Act is followed, no illegality can be attributed to the said 'pass through' method. On this basis, it was submitted that the writ petition deserved to be dismissed.

53. Mr. Kapadia, learned senior counsel appearing for respondent No.5-MIDC supported the contentions raised by the learned senior counsel appearing for respondent-State authorities. He made detailed submissions with regard to the statutory scheme under the MID Act, particularly pertaining to the definitions of terms like 'Industrial Area' and 'Industrial Estate'. Reference was also made to Sections 32, 39 and 41-1B of the MID Act, read with the Maharashtra Industrial Policy 2013 and the Package Scheme of Incentives 2013. It was submitted that under the said policy, mega

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projects were being encouraged so as to generate employment and to bring about large scale development through establishment of industrial areas in the State of Maharashtra. The role of the respondent No.5-MIDC being pivotal to the same, acquisition of lands was undertaken to meet the goals of such policy.

54. It was submitted that in this backdrop, the proposed project of the respondent No.6-MVF was granted status of ultra mega project. It was submitted that in the light of the said project being declared as ultra mega project and particularly, in the light of the said industrial policy of the State, the decision of the HPC, rejecting the proposal, was obviously incorrect and the subject land could certainly be acquired for industrial activity. It was for this reason that the Cabinet Sub-Committee took a decision for acquisition of the subject land by the 'pass through' method under the MID Act. The Land Selection Committee of respondent No.5-MIDC conducted site inspection and submitted its report. It was submitted that since the respondent-State, in conjunction with the respondent No.5-MIDC, took necessary steps permitted under the said policy and the provisions of the MID Act, there was no question of colourable exercise of power as alleged by the petitioner. It was specifically submitted that Section 39(1)(a) of the MID Act was the statutory basis of the 'pass through' method.

55. It was submitted that in such cases, where a particular public purpose is identified in furtherance whereof lands are proposed to be acquired, the satisfaction of the State is the only relevant factor

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for declaring a particular land as required for public purpose. Reliance was placed on judgement of the Supreme Court in the case of *Smt. Somawanti & Ors. vs. The State of Punjab & Ors.,* 1962 SCC OnLine SC 23. It was submitted that the petitioner-TPCL is not justified in alleging that the 'pass through' method adopted in the present case is nothing but a colourable exercise of power, *inter alia*, for the reason that such a method was adopted for acquiring land for the benefit of the petitioner-TPCL itself. A challenge was raised to the same before this Court, but eventually the writ petition was dismissed in the case of *Pravin Kashinath Bhagat & Ors. vs. Collector, District Raigad & Ors.,* 2012 SCC OnLine Bom 524. The petitioner was respondent in the said writ petition. Thus, the petitioner itself having been a beneficiary of such a 'pass through' method, cannot be heard to say that the method is illegal or unconstitutional.

56. On the question of acquisition of private land for another private company like the respondent No.6-MVF, it was submitted that since proper procedure was followed for the proposed ultra mega project by the respondent No.6-MVF and necessary statutory requirements were satisfied, no fault can be found with the said acquisition. It was submitted that the allegations of arbitrariness, discrimination and bias in favour of respondent No.6-MVF, cannot be alleged on vague submissions. Reliance was placed on the judgement of the Supreme Court in the case of *Girias Investment Private Limited & Anr. vs. State of Karnataka & Ors.,* (2008) 7 SCC 53, to contend that *mala fide* could be made

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out only if the impugned action was taken with the specific object of damaging the interest of the petitioner or such action was aimed at helping respondent No.6-MVF, resulting in damage to the petitioner. It was submitted that in the present case, no such material was placed on record and in the light of the proposed ultra mega project of respondent No.6-MVF, being in public interest and for public purpose, the allegation of *mala fide* ought to be rejected.

57. In order to counter the submissions made on behalf of the petitioner-TPCL, the learned senior counsel appearing for respondent No.5-MIDC submitted that the subject lands are not being used by the petitioner-TPCL for any specific purpose. No material is placed on record that the said land, including two land outcrops in the reservoir/lake of the Thokarwadi Dam are either purposely kept vacant or that they are indeed being utilized for the hydro electric project. No material has been placed on record on behalf of the petitioner-TPCL to demonstrate how the functioning of its hydro electric project would be hampered by handing over of the subject land to the respondent No.6-MVF. It is an admitted position that there are no installations of the petitioner-TPCL concerned with its hydro electric projects on the subject land, including the two land outcrops. On this basis, it was submitted that there is no case made out by the petitioner-TPCL in its favour.

58. As regards the Thokarwadi Dam being declared a protected place under Defence of India Rules, 1962 or a prohibited zone, it

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was submitted that such notification, if any, had expired and in any case, the Defence of India Act and the Rules framed thereunder being temporary enactment, there was no question of such notifications holding the field and in any manner prohibiting exercise of statutory power by the State and the respondent No.5-MIDC under the provisions of the MID Act.

59. As regards the subject land being part of Ecologically Sensitive Zone, it was submitted that the contentions raised in this regard on behalf of the petitioner-TPCL were vague and general. The petitioner-TPCL had failed to demonstrate any statutory declaration in this regard, that would prohibit the proposed ultra mega project of respondent No.6-MVF.

60. On the aspect of applicability of Section 42A of the MID Act, it was submitted that the said provision is wholly inapplicable because the subject land was never declared an industrial area in the first place. In such a situation, there would be no question of the subject land first being shown as unutilized or surplus land in industrial area, thereby showing inapplicability of Section 42A of MID Act. On the basis of the aforesaid submissions, the learned senior counsel appearing for respondent No.5-MIDC submitted that the writ petition deserved to be dismissed.

61. Mr. Anturkar, learned senior counsel appearing for respondent No.6-MVF submitted that the proposed ultra mega project of respondent No.6-MVF is an integrated ayurveda and traditional knowledge industrial project, wherein multifarious

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activities would be undertaken. These include manufacturing and processing of ayurvedic medicines, herbal/organic products and wellness products; research and development concerning the ayurveda, medicinal plants, vedic sciences and traditional knowledge; health care facilities, including ayurvedic hospital, kaya kalpa rejuvenation and holistic healing; medical and wellness tourism, including development of an integrated destination for ayurveda, yoga and traditional Indian systems of medicines; and supporting education by developing training infrastructure, including institutions for dissemination, training and preservation of knowledge system.

62. On this basis, it was submitted that the proposed ultra mega project of respondent No.6-MVF is obviously in public interest, apart from the fact that it would generate employment for about 1000 persons, with investment to the tune of about Rs.1500 crores. Thereupon, the learned senior counsel appearing for respondent No.6-MVF submitted that the land of petitioner-TPCL that is proposed to be acquired for the ultra mega project is necessary for the said project, due to its unique location adjacent to the reservoir/lake of the Thokarwadi Dam, as also two land outcrops in the reservoir. The subject land would enhance the functional capability of the ultra mega project and therefore, it is necessary to be acquired and handed over to the respondent No.6-MVF. The petitioner-TPCL is not entitled to oppose the acquisition of the subject land only on the ground that about 126 hectares of land is already with the respondent No.6-MVF for the

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said ultra mega project.

63. The learned senior counsel appearing for respondent No.6-MVF also relied upon the policies of the State, including industrial policy, tourism policy, as also the industrial investment and service policy, to contend that the ultra mega project is in line with such policies and therefore, reference to the provisions of the MID Act for acquisition of the subject land is fully justified. It was further submitted that the provisions of the MID Act, including Sections 14, 32 and 39 thereof, sufficiently demonstrate a statutory scheme for acquisition of lands to be handed over to a company for public purpose. It was submitted that the 'pass through' method has to be understood in this context. Since, the petitioner-TPCL refused to part with the said lands on requests made by the respondent No.6-MVF, the subject lands could not be directly transferred and the 'pass through' method had to be adopted. Such a method cannot be said to be illegal for the reason that in the process of industrial development under a statute like the MID Act, acquisition can be undertaken for even a single identified private company or a project proponent. On this ground itself the acquisition cannot be labelled as a colourable exercise of power. In this context, reliance was placed on the judgement of the Supreme Court in the case of *P. Narayanappa & Anr. vs. State of Karnataka & Ors.,* (2006) 7 SCC 578.

64. It was further submitted that GR dated 27.12.2016 was being misinterpreted by the petitioner-TPCL to claim mandatory

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requirement of approval by the HPC. A proper reading of the said GR would show that it is concerned with the establishment and grant of status as an integrated industrial area. In the present case, the respondent No.6-MVF, was already granted such status and therefore, the GR to that extent had worked itself out in the context of respondent No.6-MVF. The process of acquisition of the land is through the statutory mechanism under the MID Act, as per Sections 1(3) and 32 thereof. The same cannot be interdicted, in any manner, by a GR, much less the GR dated 27.12.2016, which concerns a completely different subject. On the basis of this distinction, it was submitted that the petitioner-TPCL cannot harp upon mandatory clearance or approval by the HPC, as per GR dated 27.12.2016.

65. It was further submitted that the petitioner-TPCL is not justified in contending that a land already acquired for public purpose cannot be acquired again. It was asserted that in the present case, the acquisition was being undertaken under MID Act, which has a specific object and the State is effectively only altering the user of land. It was emphasized that the only relevant factor in such a case is, as to whether the acquisition itself is for public purpose. By relying upon the aforementioned goals to be achieved through the ultra mega project, it was submitted that in the present case, the acquisition was clearly for public purpose and hence, the contention raised on behalf of the petitioner-TPCL deserved to be rejected.

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66. In this regard, reliance was placed on judgement of the Supreme Court in the case of *R.L. Arora vs. State of Uttar Pradesh & Ors.,* 1964 SCC OnLine SC 19. It was further submitted that the Court would not enter into the relative significance or importance of two competing public purposes. This would be beyond the scope of jurisdiction being exercised under Article 226 of the Constitution of India. By placing reliance on the judgement of the Supreme Court in the case of *Gandhi Grah Nirman Sahkari Samiti Ltd. & Ors. vs. State of Rajasthan & Ors.*, (1993) 2 SCC 662, it was submitted that the Supreme Court held that the Court cannot go into comparative utility of the public purposes, once it is found that the acquisition is for public purpose.

67. It was further submitted that the petitioner-TPCL failed to place on record any material to support its contention that the subject land was required for future projects, concerning hydro electric power. General and vague statements were made on behalf of the petitioner-TPCL, which cannot be the basis to interfere with the statutory process of acquisition under Section 32 of the MID Act. It was further submitted that the apprehensions regarding security of the hydro electric projects of the petitioner-TPCL are wholly misplaced and the said apprehensions were duly addressed in a joint meeting held on 06.05.2025, wherein it was indicated that all necessary steps would be taken to ensure security in the area. As regards environmental concerns raised on behalf of the petitioner-TPCL, it was submitted that the same were again based of vague assertions. In any case, despite the petitioner-TPCL

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addressing number of communications to authorities for declaring the area as an Ecologically Sensitive Zone, it was asserted on behalf of the respondent No.6-MVF that the proposed ultra mega project is clearly in public interest and for public purpose, as it would also generate large scale employment for residents of the local area, thereby ensuring over all development in the said area. On this basis, it was submitted that the writ petition deserves to be dismissed, so that the SDO can proceed to pass an appropriate order on the objections raised by the petitioner-TPCL and the statutory process can be taken forward.

CONSIDERATION & FINDINGS

68. In order to consider the elaborate submissions made on behalf of the petitioner-TPCL, the respondent-State authorities, the respondent- MIDC and the respondent No.6-MVF, it would be appropriate to first take into consideration the nature of right claimed by the petitioner-TPCL, in the backdrop of the agreements and conveyances executed in its favour between the years 1911 and 1940, in respect of the subject lands. The agreements and conveyances with which we are concerned date back to more than a century. The contents thereof are identical and they pertain to different parcels of land in respect of which the Hydro Electric Project was initiated by the predecessor of the petitioner-TPCL i.e. the Tata Hydro Electric Power Supply Company Limited.

69. A perusal of the agreements and the conveyances shows the exercise undertaken under the provisions of the LA Act before the

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possession of the lands was handed over to the predecessor of the petitioner, of which the subject land admeasuring 84 hectares was also a part. A reference to the relevant clauses of one such agreement and a conveyance deed would be appropriate, to understand the exercise of statutory power under the LA Act for acquiring specific lands from villages in District Pune for the Hydro Electric Project. The relevant portions of agreement dated 07.07.1911, executed between the predecessor of the petitioner and the Secretary of State for India in Council read as follows:-

> " An Agreement made this Seventh day of July One thousand nine hundred and eleven BETWEEN THE TATA HYDRO-ELECTRIC POWER SUPPLY COMPANY LIMITED (hereinafter called "the Company" which expression shall unless excluded by or repugnant to the context be deemed to include The Tata Hydro-Electric Power Supply Company Limited and their successors and assigns) of the one part and THE SECRETARY OF STATE FOR INDIA IN COUNCIL (hereinafter called "the Secretary of State" which expression shall unless excluded by or repugnant to the context be deemed to include the Secretary of State for India in Council and his successors and assigns) of the other part WHEREAS in connection with the undertaking and business of the Company for the purpose of the construction of certain reservoirs and dams for collecting and storing a supply of water and of acqueducts canals and headraces for water carriage therefrom and engine houses and buildings and other works connected therewith (hereinafter referred to collectively as "the said works") on certain land situated within the villages of Lonavla, Bhushi, Kurvanda, Jevre, Nandgaon, Pangloli, Budheli, Varsole, Walwhan, Tungarli, Khandalla, Warpa, Nagargaon, Avandhe Budruk, Torne, Valvandhe, Umbre (Taraf Nane Maval) and Shiravte in the Maval Taluka of the Poona District and of the villages of Khopoli, Bhanaj and Devalad in the Karjat Taluka of the Kolaba District the Company have applied to the

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Government of Bombay to put in force the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as "the said Act") in order to acquire for the Company all land situated within the said villages which is needed for the construction of the said works AND WHEREAS the Government of Bombay having caused an enquiry to be held in conformity with the provisions of Section 40 of the said Act and being satisfied on the report of the result of such enquiry that the acquisition of land within the said villages is needed for the construction of the said works of the Company and that the said works are likely to prove useful to the public has consented to the provisions of the said Act being put in force in order to acquire land for the purposes of the Company and has pursuant to Section 41 of the said Act required the Company to enter into such agreement with the Secretary of State as is herein contained NOW THESE PRESENTS WITNESS and it is hereby agreed between and by the Company on the one hand and the Secretary of State on the other hand as follows:-

* * *

5. If at any time or times any part or parts of the said acquired land not actually utilized or intended to be utilized as a site for any of the said works shall in the opinion of the said Government be necessary to be possessed by the said Government for purposes of revenue administration or for purposes connected with public health safety or necessity (of which matters the said Government shall be the sole judge) the Company on being thereunto required by the said Government shall transfer to the Secretary of State such part or parts of the said acquired land as the said Government shall specify to be necessary for any of the purposes aforesaid and in consideration of such transfer the Secretary of State shall pay to the Company a sum equal to the amount of the compensation awarded under the said Act and paid by the Company in respect of the land the subject of the transfer upon the acquisition thereof for the Company including the amount awarded in respect thereof under Section 23 (2) of the said Act.

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> 6. Subject to Clause 5 hereof any of the said acquired land or any part thereof which shall no longer be used or required for the purposes of the undertaking and business of the Company or which shall not be used for the purposes of the undertaking and business of the Company within the period prescribed by Clause 7 hereof for the construction of the said works shall subject to the rents payable for the time being in respect thereof to the said Government by the terms of these presents and to the Local Fund Cess payable in respect thereof for the time being be offered through the said Government for sale to the respective persons or to the heirs or the legal representatives of the respective persons from whom the same had been actually acquired or to the occupants of adjoining lands at a price not exceeding the price which the Company shall fix as their minimum limit for such sale and in the event of such sale being declined may be sold subject to the said rents and the said Local Fund Cess by the Company at their discretion."

70. The relevant portions of one such conveyance dated 27.04.1938 read as follows:-

> "AND WHEREAS by another Agreement (hereinafter called "the First Supplemental Agreement") and made between the Company of the one part and the Secretary of State of the other part bearing date the 16th day of February 1921 and expressed to be supplemental to the Principal Agreement after reciting that certain further lands were needed for the said works and that the Company had applied to the Government of Bombay to put in force the provisions of the said Act in order to acquire such lands for the Company it was (inter alia) agreed that the Government of Bombay on being satisfied that the acquisition of such lands was necessary in connection with the said works should put in force the provisions of the said Act and that after the Company should have paid the entire monics compensation interest costs charges expenses payable in respect thereof under the Principal Agreement the said lands should be transferred to the Company subject as

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> therein mentioned and that all the conditions stipulations and provisions of the Principal Agreement (except Clauses 12, 13 and 14 relating to the Aerial transmission land and Clause 17) should apply to any land acquired for the Company in the villages mentioned in the Schedule thereto as if the said villages had been included in the villages mentioned in the Principal Agreement and that the rights obligations and liabilities of the Company in respect of any such land should in all respect be similar to the rights obligations and liabilities of the Company in respect of any land acquired under the Principal Agreement."

71. A bare perusal of the above-quoted portions of the agreement and the conveyance sufficiently demonstrate that the State authority took recourse to Part VII of the LA Act, specifically pertaining to acquisition of land for companies, consisting of Sections 38 to 44-B. The above-quoted portion of the agreement dated 07.07.1911 specifically refers to the enquiry conducted under Section 40 of the LA Act and Section 41 thereof, pertaining to agreement with the Appropriate Government for acquisition of specific piece of land. The agreement as well as the conveyance record the specific purpose for which the lands were acquired and handed over to the predecessor of the petitioner-TPCL. This pertained to construction of a reservoir and dam for collecting and storing supply of water in order to establish the Hydro Electric Power Generation Project. A perusal of the agreement as well as the conveyance would show the public purpose for which the lands, including the subject land admeasuring 84 hectares, were acquired. Clause 5 of the above-quoted agreement specified that if at any time or times, any part or parts of the said acquired lands

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were not actually utilized or intended to be utilized for the said works pertaining to the Hydro Electric Project, the State Government had the power to transfer the same to itself if such part or parts were required for the purposes of revenue administration or for purposes connected with public health safety or necessity and that the Government was to be the sole judge of such requirement.

72. Thus, the contents of the agreements as well as the conveyances executed between the predecessor of the petitioner and the then Sovereign Government contemplated taking over of certain part or parts of the lands made over to the company, subject to the condition that such part or parts of the land were unutilized for the Hydro Electric Project. The taking over of the land by the Government was also to be obviously for public purpose.

73. In this context, a significant aspect in the present case pertains to the question as to whether the subject land of 84 hectares in the villages in District Pune specified in the impugned notification, admeasuring about 84 hectares were / are unutilized for the Hydro Electric Project. The petitioner has asserted that the subject land admeasuring about 84 hectares continues to be utilized for the Hydro Electric Project i.e. the Thokarwadi Dam and the Bhivpuri Hydro Project of 75 MW and that it is crucial for the Bhivpuri Pump Hydro Project of 1000 MW, in the context of which the said MoU has been executed between the petitioner-

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TPCL and the respondent-State of Maharashtra on 08.08.2023. It is asserted on behalf of the petitioner that the subject land adjacent to the reservoir / lake of the Thokarwadi dam as well as the two land outcrops in the reservoir, being part of the said 84 hectares land of the petitioner-TPCL, is very much utilized as it is part of the catchment area of the Thokarwadi dam. The utility of the said land is emphasized on the part of the petitioner-TPCL, particularly taking into account the huge 1000 MW Bhivpuri Pumped Hydro Project being established in the light of the said MoU dated 08.08.2023. The petitioner-TPCL also heavily relied upon the primacy being given by the Central Government as well as the respondent-State of Maharashtra to such Pumped Storage Projects as per the Pumped Storage Policy 2023 of the respondent-State of Maharashtra. Such non-conventional energy sources are the need of the present times and on this basis, the petitioner-TPCL asserts that there is no question of the subject land of 84 hectares being labelled as 'unutilized land' for its Hydro Electric Projects.

74. On this basis, we find substance in the contention raised on behalf of the petitioner-TPCL that the subject land cannot be categorised as ‘unutilised’ for the public purpose of its Hydro Electric Projects. Hence, the State could not have taken any step for acquisition of the subject land as the pre-condition for taking recourse to the above-quoted relevant clauses and portions of the agreements and conveyances did not exist. We find that once the lands, that were subject matter of such solemn agreements and

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conveyances, included the said portion of 84 hectares, any step for transferring the land by the State either to itself or the respondent-MIDC could have been taken only if the said portion of 84 hectares was unutilized for the Hydro Electric Projects of the petitioner-TPCL.

75. In this context, it is significant to note that neither the impugned Notification dated 03.03.2025 issued under Section 1(3) of the MID Act nor the Government Resolution dated 04.03.2025 issued by the State Government, stating the intention of acquiring the said 84 hectares of land for respondent No.6-MVF and not even the notices dated 07.03.2025 issued under Section 34(2) of the MID Act even remotely refer to the said 84 hectares of land, as remaining 'unutilized' for the Hydro Electric Projects of the petitioner-TPCL. Thus, the very substratum for exercising power by the respondent- State Government in terms of the said agreements and conveyances did not exist when the impugned Notification, Government Resolution and Notices were issued by the respondent-State, purportedly exercising power under the provisions of the MID Act. Such an action is found to be in the teeth of the relevant clauses and portions of the agreements and conveyances.

76. It is surprising to note that in the affidavits filed on behalf of the respondent-State authorities and the respondent- MIDC, it is claimed that the subject land admeasuring 84 hectares, proposed to be acquired by recourse to the provisions of the MID Act, had

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remained unutilized by the petitioner-TPCL for its Hydro Electric Projects. In other words, what is not stated in the impugned Notification, Government Resolution and Notices issued under the MID Act, is claimed to be a ground for initiating the process of acquisition of the subject land. It is settled position of law as per judgement of the Supreme Court in the case of *Mohinder Singh Gill and another Vs. Chief Election Commissioner, New Delhi*, **(1978) 1 SCC 405**, followed subsequently in a number of judgements, that State authorities cannot substitute or state reasons in affidavits, which are not stated in the orders / notifications etc. issued by such State authorities, purportedly in the exercise of statutory power. But, contrary to the said position of law, the respondent-State authorities as well as the respondent-MIDC have sought to state the ground of 'unutilized land' of the petitioner-TPCL for justifying the acquisition of the subject 84 hectares of land. Admittedly, no enquiry was conducted by the respondent to come to a conclusion in that regard.

77. It is for this reason that the petitioner-TPCL has raised grounds of challenge by referring to Section 42A of the MID Act, which pertains to acquisition of unutilized surplus land in industrial area and allotment to other industries. The respondent-State authorities and the respondent-MIDC have opposed the said ground by stating that since the subject land of 84 hectares does not form part of an industrial area under the MID Act, the petitioner cannot rely upon Section 42A thereof to challenge the

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action of the respondents in the present case. We find that since the said respondents relied upon purported non-utilisation of the subject land by the petitioner-TPCL in their reply affidavits as a ground for justifying the acquisition, while disputing the same, the petitioner-TPCL has referred to Section 42A of the MID Act. It is obvious that since the acquisition under Part VII of the LA Act was undertaken as far back as in the years 1911 to 1940, much before the MID Act was enacted in the year 1961, there would be no question of the subject land being an industrial area under the provisions of the MID Act. But, it is because of the allegation levelled by the said respondents about the subject land not having been utilized by the petitioner-TPCL for its Hydro Electric Projects that the petitioner has been constrained to take such a stand. It is also taken in conjunction with the above-quoted relevant clauses and portions of the agreements and conveyances through which the land was made over to the predecessor of the petitioner-TPCL between the years 1911 and 1940.

78. It is in this backdrop that the contention raised by the petitioner-TPCL, in the context of Section 42A of the MID Act, needs to be appreciated. A perusal of the said provision shows that if a portion of land, which is an industrial area, remains unutilized and becomes surplus, it can be acquired and allotted to other industries. The said provision requires a particular procedure of enquiry to be undertaken and only thereupon, can the MIDC proceed to allot such unutilized surplus lands to another industry.

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The petitioner has taken the same analogy forward by referring to the above-quoted relevant clauses and portions of the agreements and conveyances to counter the stand taken by the said respondents. We find substance in the contention of the petitioner-TPCL that the impugned Notification, Government Resolution and Notices issued under the MID Act should have been preceded by an enquiry for reaching a conclusion that the subject land of 84 hectares had remained 'unutilized' for the Hydro Electric Projects of the petitioner-TPCL. In the absence of any such enquiry or reasoning leading upto issuance of the impugned Notification, Government Resolution and Notices under the MID Act, a strong ground is made out in favour of the petitioner-TPCL to seek quashing of the same. We find that the respondent-State authorities and the respondent-MIDC cannot have it both ways, meaning thereby that they cannot in the same voice claim that an enquiry into the aspect of non-utilization of the subject land of 84 hectares by the petitioner-TPCL was not required to be undertaken and at the same time, claim that since the subject land was unutilized by the petitioner-TPCL, it was being acquired for the respondent No.6-MVF. We find substance in the challenge raised on behalf of the petitioner-TPCL in this regard.

79. In this backdrop, it would be necessary to refer to the relevant provisions of the LA Act, the Act of 2013 as well as the MID Act, to examine the rival contentions with regard to the manner in which the respondent-State has exercised power while

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issuing the impugned Notification dated 03.03.2025.

80. It is the case of the petitioner-TPCL that under the provisions of the MID Act, the State cannot acquire land for a private company. It is further asserted that in the present case, even if the respondent No.6-MVF i.e. the private company claims that its activities could be said to be beneficial to the public, acquisition for its benefit cannot be undertaken under the provisions of the MID Act. In this context, reliance is placed on judgements that refer to Part VII of the LA Act, which exclusively pertains to acquisition of lands for companies, in order to highlight the distinction between the nature of acquisition under the general law for land acquisition on the one hand and acquisition under the MID Act on the other. Reference is also made to the relevant provisions of the Act of 2013 to contend that specific procedure is contemplated before land can be acquired for a company. In contrast, under the MID Act, there is no provision for acquisition of land for a private company.

81. In this context, although LA Act has been repealed, a perusal of Part VII of the LA Act pertaining to acquisition of lands for companies shows that detailed procedure is contemplated therein, including enquiry under Section 40 and execution of agreement with Appropriate Government under Section 41 thereof. The other Sections of the said Part VII of the LA Act specify the limited purposes for which acquisition could be undertaken for a company.

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82. Since the Act of 2013 is now in vogue, it would be appropriate to refer to the relevant provisions thereof to indicate as to the procedure to be followed when land is to be acquired for a company. In this context, Section 2 along with *proviso* added by way of Maharashtra Amendment to sub-section (2) thereof, read with Section 10A added by way of Maharashtra Amendment and Section 3(j) defining 'company', need to be appreciated. The said provisions read as follows:-

> **2. Application of Act**.- (1) The provisions of this Act relating to land acquisition, compensation, rehabilitation and resettlement, shall apply, when the appropriate Government acquires land for its own use, hold and control, including for Public Sector Undertakings and for public purpose, and shall include the following purposes, namely:-
>
> (a) for strategic purposes relating to naval, military, air force, and armed forces of the Union, including central paramilitary forces or any work vital to national security or defence of India or State police, safety of the people; or
>
> (b) for infrastructure projects, which includes the following, namely:-
>
> (i) all activities or items listed in the notification of the Government of India in the Department of Economic Affairs (Infrastructure Section) number 13/6/2009-INF, dated the 27th March, 2012, excluding private hospitals, private educational institutions and private hotels;
>
> (ii) projects involving agro-processing, supply of inputs to agriculture, warehousing, cold storage facilities, marketing infrastructure for agriculture and allied activities such as dairy, fisheries, and meat processing, set up or owned by the appropriate Government or by

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a farmers' cooperative or by an institution set up under a statute;

(iii) project for industrial corridors or mining activities, national investment and manufacturing zones, as designated in the National Manufacturing Policy;

(iv) project for water harvesting and water conservation structures, sanitation;

(v) project for Government administered, Government aided educational and research schemes or institutions;

(vi) project for sports, heath care, tourism, transportation or space programme;

(vii) any infrastructure facility as may be notified in this regard by the Central Government and after tabling of such notification in Parliament;

(c) project for project affected families;

(d) project for housing for such income groups, as may be specified from time to time by the appropriate Government;

(e) project for planned development or the improvement of village sites or any site in the urban areas or provision of land for residential purposes for the weaker sections in rural and urban areas;

(f) project for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by the Government, any local authority or a corporation owned or controlled by the State.

(2) The provisions of this Act relating to land acquisition, consent, compensation, rehabilitation and resettlement, shall also apply, when the appropriate Government acquires land for the following purposes, namely:-

(a) for public private partnership projects, where

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the ownership of the land continues to vest with the Government, for public purpose as defined in sub-section (1);

(b) for private companies for public purpose, as defined in sub-section (1):

Provided that in the case of acquisition for-

(i) private companies, the prior consent of at least eighty per cent. of those affected families, as defined in sub-clauses (i) and (v) of clause (c) of section 3; and

(ii) public private partnership projects, the prior consent of at least seventy per cent. of those affected families, as defined in sub-clauses (i) and (v) of clause(c) of section 3,

shall be obtained through a process as may be prescribed by the appropriate Government:

Provided further that the process of obtaining the consent shall be carried out along with the Social Impact Assessment study referred to in section 4:

Provided also that no land shall be transferred by way of acquisition, in the Scheduled Areas in contravention of any law (including any order or judgement of a court which has become final) relating to land transfer, prevailing in such Scheduled Areas.

(3) The provisions relating to rehabilitation and resettlement under this Act shall apply in the cases where,-

(a) a private company purchases land, equal to or more than such limits in rural areas or urban areas, as may be prescribed by the appropriate Government, through private negotiations with the owner of the land in accordance with the provisions of section 46;

(b) a private company requests the appropriate Government for acquisition of a part of an area so prescribed for a public purpose:

Provided that where a private company requests the appropriate Government for partial acquisition of land for public purpose, then, the rehabilitation and resettlement entitlements under the Second Schedule shall be applicable

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for the entire area which includes the land purchased by the private company and acquired by the Government for the project as a whole.

Maharashtra.- In its application to the State of Maharashtra, in sub-S.(2) of S.2, after the second proviso, the following proviso shall be added, namely:-

"Provided also that, the acquisition of land for the projects listed in section 10-A and the purposes specified therein, shall be exempted from the provisions of the first proviso to this sub-section.

3. **Definitions**.- In this Act, unless the context otherwise requires,-

(j) 'company' means -

(i) a company as defined in section 3 of the Companies Act, 1956 (1 of 1956), other than a Government company;

(ii) a society registered under the Societies Registration Act, 1860 (21 of 1860) or under any corresponding law for the time being in force in a State;

10A. *Power of State Government to exempt certain projects*- The State Government may, in the public interest, by notification in the Official Gazette, exempt any of the following projects from the application of the provisions of Chapter II and Chapter III of this Act, namely:-

(a) such projects vital to national security or defence of India and every part thereof, including preparation for defence or defence production;

(b) rural infrastructure including irrigation and electrification;

(c) affordable housing and housing for the poor people;

(d) industrial area or industrial estate set up by the State Government and its undertaking;

(e) industrial corridor set up by the State

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> Government and its undertaking (in which case the land shall be acquired up to one kilometre on both sides of designated railway line or roads for such industrial corridor); and
>
> (f) infrastructure projects including projects under public-private partnership where the ownership of land continues to vest with the Government:
>
> Provided that, the State Government shall, before issue of notification, ensure the extent of land for the proposed acquisition keeping in view the bare minimum land required for such project.

83. A perusal of the above-quoted provisions of the Act of 2013 would show that if land is to be acquired for private companies, it has to be acquired for 'public purpose' as defined in sub-section (1) of Section 2. As per the third proviso to sub-section (2) of Section 2 of the Act of 2013, the projects listed in Section 10A and the purposes specified therein, stand exempted from the provisions of first *proviso* to the said sub-section. The first *proviso* pertains to the process of obtaining consent of 80% affected families etc. But, a perusal of Section 10A of the Act of 2013, quoted hereinabove, would show that the State Government, in public interest, is required to first issue a notification in the Official Gazette, exempting specific project from application of the provisions of Chapter II concerning Social Impact Assessment Study and Chapter III pertaining to Provisions to Safeguard Food Security. The nature of such projects is specified in clauses (a) to (f) of Section 10A of the Act of 2013. None of the clauses refer to the beneficiary being a private company. Clause (d) refers to industrial area or industrial estate set up by the State Government and its

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undertaking, while clause (f) refers to infrastructure projects including projects under Public-Private Partnership where the ownership of the land continues to vest with the Government. In the present case, since the respondent-State will be handing over the land to the respondent No.6-MVF, which is a private company, there is no question of applicability of clause (f). In any case, it cannot apply because the proposed activities of respondent No.6-MVF do not qualify to be either infrastructure projects or projects under Public-Private Partnership where the ownership of the land continues to vest with the Government. As regards clause (d) pertaining to industrial area or industrial estate set up by the Government and its undertaking, in the present case, there is no question of the respondent-State intending to set up an industrial area or an industrial estate because the subject land upon acquisition is admittedly being handed over to respondent No.6-MVF, which is a private company.

84. This is quite apart from the fact that the subject land in the present case is already part of the total land in possession of the petitioner-TPCL for utilization for the public purpose of Hydro Electric Projects. The respondent-State, in the present case, has taken recourse to the provisions of the MID Act to claim that power under Section 1(3) thereof could be exercised in the facts and circumstances of the present case to declare that the subject land of 84 hectares could be made amenable to Chapter VI of the MID Act pertaining to acquisition and disposal of land. Before proceeding further, it would be appropriate to refer to the relevant

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provisions of the MID Act, which read as follows:-

> "**1. Short title, extent and commencement.**- (1) This Act may be called the Maharashtra Industrial Development Act, 1961.
>
> (2) It extends to the whole of the State of Maharashtra.
>
> (3) This Act, except Chapter VI, shall come into force at once; Chapter VI shall take effect in such area, from such date as the State Government may, from time to time, by notification in the Official Gazette, appoint in that behalf:
>
> Provided that, if in the opinion of the State Government any area or any part thereof, where Chapter VI has been brought into force, is not required or is not likely to be required for the purposes of development as an industrial area, the State Government may, by like notification, direct that Chapter VI shall cease to be in force in that area or in any part thereof on such date as may be specified in the notification, except as respects things done or omitted to be done before such date:
>
> Provided further that, no notification shall issued by the State Government under the first proviso after the expiry of such period from the date of bringing into force of Chapter VI as may be prescribed; and different periods may be prescribed for the areas in which Chapter VI has been brought into force before the commencement of the Maharashtra Industrial Development (Amendment) Act, 1974 and for the areas in which that Chapter may be brought into force after such commencement.
>
> **2. Definitions.**- In this Act, unless the context otherwise requires,-
>
> (g) 'industrial area' means any area declared to be an industrial area by the State Government by notification in the Official Gazette, which is to be developed and where industries are to be accommodated;
>
> (h) 'industrial estate' means any site selected by the State Government, where the Corporation builds factories and other buildings and makes them available for any industries

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or class of industries;

32. Compulsory acquisition. - (1) If at any time in the opinion of the State Government, any land is required for the purpose of development by the corporation, or for any other purpose in furtherance of the objects of this act, the State Government may acquire such land by publishing in the Official Gazette a notice specifying the particular purpose for which such land is required, and stating therein that the State Government has decided to acquire the land in pursuance of this section.

(2) Before publishing a notice under sub-section (1), the State Government shall by another notice call upon the owner of the land and any other person who in the opinion of the State Government may be interested therein, to show cause, within such time as may be specified in the notice, why the land should not be acquired. The State Government shall also cause public notice to be given in the manner laid down in section 53 and in the Official Gazette.:

Provided that, if the land proposed to be acquired falls within a scheduled Area then the State Government shall before such acquisition consult,-

(i) the Gram Sabha and the Panchayat concerned if the land is falling within the area of one Panchayat;

(ii) the concerned Gram Sabhas and the Panchayat Samiti if the land falling within the area of more than one Panchayats in the Block concerned;

(iii) the concerned Gram Sabhas and theZilla Parishadif the land is falling within the area of more than one Block in the district concerned;

such consultation shall be carried out in the manner as may be !aid down by the State Government by issuing a general or special order in this behalf:

Provided that the decision taken by the majority of the Gram Sabhas concerned by passing a resolution in the above matters shall be binding on the concerned Panchayat Samiti or the Zila Parishad as the case may be.

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Explanation. - For the purposes of these provisos,-

(i) the expressions "Gram Sabha" or "Panchayat" and "Scheduled Areas" shall have meanings, respectively, assigned to them in the Bombay Village Panchayats act, 1958;

(ii) the expressions "Panchayat Samiti" and "Zilla Parishad" shall have the meaning, respectively, assigned to them in the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.

(3) After considering the cause, if any, shown by the owner of the land and by any other person interested therein, and after giving such owner and person an opportunity of being heard, the State Government may pass such orders as it deems fit.

(4) When a notice under sub-section (1) is published in the Official Gazette, the land shall, on and from the date of such publication, vest absolutely in the State Government free from all encumbrances:

Provided that, if, before actual possession of such land is taken by or on behalf of the State Government, it appears for the State Government that the land is no more required for the purposes of this Act, the State Government may, by like notice, withdraw the land from acquisition and on the publication of such notice in the Official Gazette, the land shall revest with retrospective effect in the person in whom it was vesting immediately before the publication of the notice under sub-section (1) subject to such encumbrances, if any, as may be subsisting at that time. The owner and other persons interested shall be entitled to compensation for the damage, if any, suffered by them in consequence of the acquisition proceedings as determined in accordance with the provisions of section 33.

(5) Where any land is vested in the State Government under sub-section (4) the State Government may, by notice in writing, order any person who may be in possession of the land to surrender or deliver possession thereof to the State Government or any person duly authorised by it in this behalf within thirty days of the service of the notice.

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(6) If any person refuses or fails to comply with an order made under sub-section (5), the State Government may take possession of the land and may for that purpose use such force as may be necessary.

(7) Where the land has been acquired for the corporation or any local authority, the State Government shall, after it has taken possession thereof, by notification published in the Official Gazette, transfer the land to the Corporation or that local authority, as the case may be, for the purpose for which it was acquired, and the provisions of section 43-1A shall apply to any land so transferred;

39. Disposal of land by the Corporation. (1) Subject to any directions given by the State Government under this Act, the Corporation may dispose of -

(a) any land acquired by the State Government and transferred to it, without undertaking or carrying out any development thereon; or

(b) any such land after undertaking or carrying out such development as it thinks fit,

to such person in such manner and subject to such terms and conditions, as it considers expedient for securing the purposes of this Act.

(2) The powers of the Corporation with respect to the disposal of land under sub-section (1) shall be so exercised as to secure, so far as practicable, that-

(a) where the Corporation proposes to dispose of by sale any such land without any development having been undertaken or carried out thereon, the Corporation shall offer the land in the first instance to the persons from whom it was acquired, if they desire to purchase it, subject to such requirements as to its development and use as the Corporation may think fit to impose;

(b) persons who are residing or carrying on business or other activities on any such land shall, if they desire to obtain accommodation on land belonging to the Corporation and are willing to comply with any requirements of the

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> Corporation as to its development and use, have an opportunity to obtain thereon accommodation suitable to their reasonable requirements on terms settled with due regard to the price at which any such land has been acquired from them.
>
> (3) Nothing in this Act shall be construed as enabling the Corporation to dispose of land by way of gift, mortgage or charge, but subject as aforesaid reference in this Act to the disposal of land shall be construed as reference to the disposal thereof in any manner, whether by way of sale, exchange or lease or by the creation, of any easement, right or privilege or otherwise."

85. A perusal of the above-quoted provisions of the MID Act would show that while the respondent-State is empowered to issue notification in the Official Gazette under Section 1(3) thereof to apply Chapter VI pertaining to acquisition and disposal of land, it necessarily pertains to such acquisition for establishing an industrial area or an industrial estate. The same has to be done in furtherance of the object of the MID Act. In this context, the judgement of the Constitution Bench of the Supreme Court in the case of **Shri Ramtanu Co-operative Housing Society Limited and another Vs. State of Maharashtra** (*supra*) assumes significance. In the said case, the constitutional validity of the MID Act was examined. The Supreme Court took into consideration the object of enactment of the MID Act and found that the same pertained to orderly establishment of industrial areas and industrial estates in the State of Maharashtra and for the purpose of establishment of the MIDC for promoting and assisting the rapid development of industries in the State of Maharashtra. The Supreme Court held in

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the said judgement that the true character of the MIDC under the provisions of the MID Act was that of an architectural agent for the development and growth of industrial towns by establishing and developing industrial estates and industrial areas in the State of Maharashtra. In paragraph 21 of the said judgement, the Supreme Court held as follows:-

> "21. Counsel on behalf of the petitioners contended that there was procedural discrimination between the Land Acquisition Act and the Act in the present case. It was said that there was a special procedure designed by the Land Acquisition Act for acquisition of land for the companies whereas in the present case the State was acquiring land for companies without adopting the procedure of the Land Acquisition Act. **It is to be remembered that the Act in the present case is a special one having the specific and special purpose of growth, development and organisation of industries in the State of Maharashtra. The Act has its own procedure and there is no provision in the Act for acquisition of land for a company as in the case of Land Acquisition Act. In the present case, acquisition under the Act is for the purpose of development of industrial estates or industrial areas by the Corporation or any other purpose in furtherance of the objects of the Act. The policy underlying the Act is not acquisition of land for any company but for the one and only purpose of development, organisation and growth of industrial estates and industrial areas.** The Act is designed to have a planned industrial city as opposed to haphazard growth of industrial areas in all parts of the State. The Act is intended to prevent growth of industries in the developed parts of the State. Industries are therefore to be set up in the developing or new parts of the State where new industrial towns will be brought into existence. The object of the Act is to carve out planned areas for industries. On one side there will be engineering industries and on the other there will be chemical industries. There will be localisation of industries with the result that the residents and dwellers of towns and cities will not suffer either from the polluted air or obnoxious

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> chemicals of industries or the dense growth of industries and industrial population, within and near about the residential areas. **The Land Acquisition Act is a general Act and that is why there is specific provision for acquisition of land by the State for public purpose and acquisition of land by the State for companies. The present Act on the other hand is designed for the sole purpose of development of industrial areas and industrial estates and growth and development of industries within the State. Industrial undertakings or persons who are engaged in industries all become entitled to the facilities on such industrial growth. Under the Land Acquisition Act acquisition is at the instance of and for the benefit of a company, whereas under the present Act acquisition is solely by the State for public purposes. The two Acts are dissimilar in situations and circumstances.**
>
> (emphasis supplied)"

86. A bare perusal of the above-quoted portion of the Constitution Bench judgement of the Supreme Court in the case of **Shri Ramtanu Co-operative Housing Society Limited and another Vs. State of Maharashtra** (*supra*) shows that while the MID Act has its own procedure for acquisition, there is no provision therein for acquisition of land for a company as in the general law pertaining to acquisition of lands. This is a clinching observation in favour of the petitioner-TPCL.

87. A perusal of the affidavits filed on behalf of the respondent-State authorities and the respondent-MIDC, as well as the stand orally taken before this Court, show that the acquisition of the subject 84 hectares land in the present case, is exclusively for the respondent No.6-MVF, which is a private company. The said respondents have clearly stated that the compensation amount is

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to be paid by the respondent No.6-MVF and it is not from the funds of the State or the MIDC. This has a crucial bearing on the line of judgements upon which the respondent State as well as the respondent MIDC have placed reliance. The said judgements have been rendered in the context of acquisitions undertaken either under Part II or under Part VII of the LA Act, which at the relevant time was the general law for acquisition of land till the Act of 2013 was enacted. As a matter of fact, even the petitioner-TPCL has specifically referred to the said judgements to emphasize the manner in which acquisition of lands was undertaken in those cases, when it was for the benefit of a company. While stoutly stating its own case regarding continued utilization of the subject land of 84 hectares for the public purpose of the Hydro Electric Projects, the petitioner-TPCL referred to and relied upon the said judgements, to contend that when the acquisition in the present case, was being projected by the respondent-State authorities and the respondent-MIDC, as for the benefit of the respondent No.6-MVF, a private company, it was a *sine qua non* to demonstrate that such acquisition was based on legitimate exercise of power of acquisition under the general law and that too for 'public purpose'. It is in this context that the petitioner-TPCL has alleged colourable exercise of power by the respondent-State in taking recourse to the provisions of the MID Act for acquisition of the subject 84 hectares of land, in order to by-pass procedural requirements and rigours specified in the general law of acquisition. On this ground, it is alleged that the acquisition is not only an instance of

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colourable exercise of power, but it is also *mala fide*, as the requirements of law are sought to be ignored only to benefit a private entity i.e. respondent No.6- MVF.

88. The respondent State has sought to counter the said contentions of the petitioner-TPCL by relying upon the principle of eminent domain, claiming that the source of the power to acquire land cannot be the provisions of specific Statutes, but a general and inherent power of the Sovereign. The principle of eminent domain has also been discussed in the context of colourable exercise of power, but it would be appropriate to first refer to judgements that have considered the said principle in the Indian context.

89. The rival parties have referred to the judgement of the Supreme Court in the case of **Sooraram Pratap Reddy Vs. District Collector** *(supra)* in the context of the principle of eminent domain. The relevant portion of the said judgement reads as follows:-

> **"43.** "Eminent domain" may be defined as the right or power of a sovereign State to take private property for public use without the owner's consent upon the payment of just compensation. It means nothing more or less than an inherent political right, founded on a common necessity and interest of appropriating the property of individual members of the community to the great necessities and common good of the whole society. It embraces all cases where, by the authority of the State and for the public good, the property of an individual is taken without his consent to be devoted to some particular use, by the State itself, by a corporation, public or private, or by a private citizen for the welfare of the public (*American*

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Jurisprudence, 2d, Vol. 26, pp. 638-39, Para 1; *Corpus Juris Secundum*, Vol. 29, p. 776, Para 1; *Words and Phrases*, Permanent Edition, Vol. 14, pp. 468-70).

44. "Eminent domain" is thus inherent power of a governmental entity to take privately owned property, especially land and convert it to public use, subject to reasonable compensation for the taking (vide *P. Ramanatha Aiyar's Advanced Law Lexicon*, Vol. 2, p. 1575).

45. The term "eminent domain" is said to have originated by Grotius, legal scholar of the seventeenth century. He believed that the State possessed the power to take or destroy property for the benefit of the social unit, but he believed that when the State so acted, it was obligated to compensate the injured property owner for his losses. In his well-known work *De Jure, Belli et Pacis*, the learned author proclaimed:

> 'The property of subject is under the eminent domain of the State, so that the State or he who acts for it may use, alienate and even destroy such property, not only in the case of extreme necessity, in which even private persons have a right over the property of the other, but for the ends of public utility, to which ends those who founded civil society must be supposed to have intended the private ends should give way.'

46. Blackstone too believed that the State had no general power to take private property of landowners, except on the payment of a reasonable price. The right of the State or the sovereign to its or his own property is absolute while that of the subject or citizen to his property is only paramount. The citizen holds his property subject always to the right of the sovereign to take it for a public purpose. The power of eminent domain is merely a means to an end viz. larger public interest.

47. The power of eminent domain does not depend for its existence on a specific grant. It is inherent and exists in every sovereign State without any recognition thereof in the Constitution or in any statute. It is founded on the law of necessity. The power is inalienable. No legislature can bind itself or its successors not to exercise this power when

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public necessity demands it. Nor can it be abridged or restricted by agreement or contract.

48. Nichols in his classic book *Eminent Domain* defines it (eminent domain) as "the power of sovereign to take property for public use without the owner's consent".

49. Another constitutional expert (Cooley) in his treatise on the *Constitutional Limitations*, states:

> 'More accurately, it is the rightful authority which must rest in every sovereignty to control and regulate those rights of a public nature which pertain to its citizens in common and to appropriate and control individual property for the public benefit, as the public safety, convenience or necessity may demand.'

50. Willis in his well-known work *Constitutional Law* discusses two viewpoints as to exercise of power of eminent domain. The older and stricter view was that unless the property was dedicated for user by the public at large or a considerable section thereof, it would not be for public use or for public purpose. The modern and more liberal view, however, is that it is not an essential condition of public use that the property should be transferred to public ownership or for public user and it is sufficient that the public derives advantage from the scheme.

51. In *Fallbrook Irrigation District* v. *Bradley* [41 L Ed 369 : 164 US 112 (1896)] an Act of California provided for the acquisition of lands whenever fifty landowners or a majority of them in a particular locality required it for construction of a watercourse, the object of the legislation being to enable dry lands to be brought under wet cultivation. The validity of the Act was challenged on the ground that the acquisition would only benefit particular landowners who could take water from the channel and the public as such had no direct interest in the matter and consequently there was no public user. The contention was right if narrow view was to be accepted but was not well founded if liberal view was to be adopted. Rejecting the contention, the Court observed: (L Ed pp. 389-90)

> 'To irrigate and thus to bring into possible cultivation these large masses of otherwise

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> worthless lands would seem to be a public purpose and a matter of public interest, not confined to the landowners, or even to any one section of the State. The fact that the use of the water is limited to the landowners is not, therefore, a fatal objection to this legislation. *It is not essential that the entire community, or even any considerable portion thereof, should directly enjoy or participate in an improvement in order to constitute a public use. … It is not necessary, in order that the use should be public, that every resident in the district should have the right to the use of the water.*
>
> (emphasis supplied)'"

90. Reference was also made in the said judgement to a number of decisions of foreign jurisdictions and thereafter, the following observations were made:-

> "**61.** The above principles have been accepted and applied in India also. Immediately after the Constitution came into force, this Court had an occasion to consider the power of *eminent domain* in the leading case of *Charanjit Lal Chowdhury* v. *Union of India* [1950 SCC 833 : AIR 1951 SC 41 : 1950 SCR 869] . Referring to the doctrine of *eminent domain* in the American legal system, Mukherjea, J. (as His Lordship then was) stated: (*Charanjit Lal case* [1950 SCC 833 : AIR 1951 SC 41 : 1950 SCR 869] , AIR pp. 53-54, para 48)
>
> > *'48.* It is a right inherent in every sovereign to take and appropriate private property belonging to individual citizens for public use. This right, which is described as *eminent domain* in American law, is like the power of taxation, and offspring of political necessity, and it is supposed to be based upon an implied reservation by Government that private property acquired by its citizens under its protection may be taken or its use controlled for public benefit irrespective of the wishes of the owner.'

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62. In *Commr. & Collector* v. *Durganath Sarma* [AIR 1968 SC 394 : (1968) 1 SCR 561] drawing distinction between police power and power of *eminent domain*, this Court observed: (SCC p. 399, para 9)

> *'9.* … In the exercise of its eminent domain power the State may take any property from the owner and may appropriate it for public purposes. The police and eminent domain powers are essentially distinct. Under the police power many restrictions may be imposed and the property may even be destroyed without compensation being given, whereas under the power of eminent domain, the property may be appropriated to public use on payment of compensation only.'

63. In *Coffee Board* v. *CCT* [(1988) 3 SCC 263 : 1988 SCC (Tax) 308] referring to American authorities, Mukharji, J. (as His Lordship then was) stated: (SCC p. 282, para 29)

> *'29.* … It is trite knowledge that eminent domain is an essential attribute of sovereignty of every State and authorities are universal in support of the definition of eminent domain as the power of the sovereign to take property for public use without the owner's consent upon making just compensation.'

64. In *Scindia Employees' Union* v. *State of Maharashtra* [(1996) 10 SCC 150] this Court observed: (SCC p. 152, para 4)

> *'4.* … The very object of compulsory acquisition is in exercise of the power of eminent domain by the State against the wishes or willingness of the owner or person interested in the land. Therefore, so long as the public purpose subsists the exercise of the power of eminent domain cannot be questioned. Publication of declaration under Section 6 is conclusive evidence of public purpose. In view of the finding that it is a question of expansion of dockyard for defence

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purpose, it is a public purpose.'

> **65.** In *Sharda Devi* v. *State of Bihar* [(2003) 3 SCC 128] this Court said: (SCC p. 144, para 27)
>
> > *'27* … The power to acquire by the State the land owned by its subjects hails from the right of eminent domain vesting in the State which is essentially an attribute of sovereign power of the State. So long as the public purpose subsists, the exercise of the power by the State to acquire the land of its subjects without regard to the wishes or willingness of the owner or person interested in the land cannot be questioned.'

91. The respondent-State has heavily relied upon the portions of the said judgement, wherein the inherent power of the State or the Sovereign to acquire land of its subjects, has been recognized. But, we find substance in the contention of the petitioner-TPCL that such inherent power to take private property is necessarily hemmed in by the requirement of such acquired property being put to public use. In the present case, the subject property is already put to use by the petitioner-TPCL for the public purpose of hydro electric projects, which was the purpose for which it was acquired under the LA Act in the first place and handed over to it. In the guise of exercising the power of eminent domain, the State cannot arbitrarily and whimsically take away the subject property of petitioner-TPCL. The Supreme Court in its judgement in the case of **Kolkata Municipal Corporation Vs. Bimal Kumar Shah** *(supra)* has recognized seven sub-rights in the right to property under Article 300-A of the Constitution of India. Paragraph 30 of the said judgement reads as follows:-

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> "30. What then are these sub-rights or strands of this swadeshi constitutional fabric constituting the right to property? Seven such sub-rights can be identified, albeit non-exhaustive. These are:
>
> (*i*) The duty of the State to inform the person that it intends to acquire his property — *the right to notice,*
>
> (*ii*) The duty of the State to hear objections to the acquisition — *the right to be heard*,
>
> (*iii*) The duty of the State to inform the person of its decision to acquire — *the right to a reasoned decision,*
>
> (*iv*) The duty of the State to demonstrate that the acquisition is for public purpose — *the duty to acquire only for public purpose,*
>
> (*v*) The duty of the State to restitute and rehabilitate — *the right of restitution or fair compensation,*
>
> (*vi*) The duty of the State to conduct the process of acquisition efficiently and within prescribed timelines of the proceedings — *the right to an efficient and expeditious process*, and
>
> (*vii*) The final conclusion of the proceedings leading to vesting — *the right of conclusion*."

92. Clause (iv) as one of the sub-rights recognized by the Supreme Court in the said judgement casts a duty on the State to demonstrate that the acquisition of land is for public purpose and the duty is to acquire only for public purpose. This is a very significant aspect sought to be given short shrift by the State while emphasizing only on the inherent power of the State to acquire. It is obvious that the power has to be exercised in accordance with law and for public purpose. In the present case, it is an admitted position that the subject land was already acquired for public purpose of the hydro electric project of petitioner-TPCL.

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93. In this context, the observations made by the Supreme court in the case of **Royal Orchid Hotels Limited and another Vs. G. Jayarama Reddy and others** *(supra)* are relevant. They read as follows:-

> "38. The courts have repeatedly held that in exercise of its power of eminent domain, the State can compulsorily acquire land of the private persons but this proposition cannot be overstretched to legitimise a patently illegal and fraudulent exercise undertaken for depriving the landowners of their constitutional right to property with a view to favour private persons. It needs no emphasis that if land is to be acquired for a company, the State Government and the company is bound to comply with the mandate of the provisions contained in Part VII of the Act. Therefore, the Corporation did not have the jurisdiction to transfer the land acquired for a public purpose to the companies and thereby allow them to bypass the provisions of Part VII. The diversification of the purpose for which land was acquired under Section 4(1) read with Section 6 clearly amounted to a fraud on the power of eminent domain. This is precisely what the High Court has held in the judgment under appeal and we do not find any valid ground to interfere with the same more so because in *Annaiah* v. *State of Karnataka*, the High Court had quashed the notifications issued under Sections 4(1) and 6 in their entirety and that judgment has become final."

94. Similarly in the case of *Devinder Singh Vs. State of Punjab*, **(2008) 1 SCC 728**, the Supreme Court found that the acquisition for a private company was bad in law, for the reason that the procedure under Part VII of the LA Act was not followed, even when the compensation amount was being arranged by the said private company. The Court found that during the pendency of the writ petition, the State came forward and claimed that it would contribute Rs.100/- towards the fund for compensation,

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which in turn, would render the acquisition legal and valid under Part II of the LA Act. But, the Supreme Court found that the acquisition was for a company and not for public purpose, thereby holding that the acquisition was clearly bad in law. Thus, when the Court found that the acquisition was only for the purpose of benefiting a private entity and such acquisition was undertaken by exercising the sovereign and inherent power of eminent domain, it was held to be bad in law. In this context, the respondents are not justified in relying upon the judgement of the Supreme Court in the case of **Smt. Somawanti & Ors. vs. The State of Punjab & Ors.** *(supra)*, to claim that declaration of public purpose by impugned notification declaring the subject property as industrial area cannot be challenged. This is for the reason that when it is based on colourable exercise of power and there is a specific allegation of benefiting respondent No.6-MVF, a private company, this Court can certainly exercise jurisdiction. Reliance placed on behalf of respondent No.6-MVF on judgement in the case of **Gandhi Grah Nirman Sahkari Samiti Ltd. & Ors. vs. State of Rajasthan & Ors.** *(supra)* is also misplaced. In the said case, it was argued on behalf of a private landowner that since there was a Polo ground in the land proposed to be acquired, which was used by public for tournaments, it should not be acquired. In that context, the Court held that it could not go into comparative utility of public purposes. But, in the present case, the subject land was specifically acquired more than a century ago for the public purpose of hydro electric power projects, which is still being used for the said

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purpose by the petitioner-TPCL. Hence, the question of enquiring into comparative utility does not arise.

95. Much emphasis is placed on behalf of the State on the opinion of one of the learned Judges (Arun Mishra, J.) in the judgement of the Supreme Court in the case of **Kedar Nath Yadav Vs. State of West Bengal** (*supra*), to contend that merely because acquisition was for a private company i.e. respondent No.6-MVF, it could not be held to be bad in law. But, we find that a proper analysis of the said opinion reveals that even if the acquisition is for a private company, it has to satisfy the test of 'public purpose'. We are unable to agree with the submission made on behalf of the respondent-State that once the State has exercised the power of eminent domain for acquiring the land and handing it over to a private entity like respondent No.6-MVF, no further examination of the same can be undertaken. This approach goes against the settled position of law that the inherent and sovereign power of eminent domain is not unbridled, but it must satisfy the requirements of law. As noted hereinabove, since the provisions of the MID Act cannot be taken recourse to for acquisition of land purely for a private company, the said stand taken on behalf of the respondent-State deserves to be rejected.

96. If there was any confusion in the matter, the same was cleared by the observations of the Constitution Bench of the Supreme Court in the case of *Pandit Jhandu Lal and others vs. State of Punjab and another*, **1960 SCC OnLine SC 331**. The

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relevant observations in the said judgement read as follows:

> "8. Having cleared the ground, it now remains to consider the terms of Section 6, on which great reliance was placed on behalf of the appellants. There is no doubt that, as pointed out in the recent decision of this Court (1), the Act contemplates acquisition for a public purpose and for a company, thus conveying the idea that acquisition for a company is not for a public purpose. It has been held by this Court, in that decision, that the purposes of public utility, referred to in Sections 40-41 of the Act, are akin to public purpose. Hence, acquisition for a public purpose as also acquisitions for a company are governed by considerations of public utility. But the procedure for the two kinds of acquisitions is different, insofar as Part VII has made substantive provisions for acquisitions of land for companies. Where acquisition is made for a public purpose, the cost of acquisition for payment of compensation has to be paid wholly or partly out of public revenues, or some fund controlled or managed by a local authority. On the other hand, in the case of an acquisition for a company, the compensation has to be paid by the Company. But, in such a case, there has to be an agreement, under Section 41, for the transfer of the land acquired by the Government to the Company on payment of the cost of acquisition, as also other matters not material to our present purpose. The agreement contemplated by Section 41 is to be entered into between the Company and the appropriate Government only after the latter is satisfied about the purpose of the proposed acquisition, and subject to the condition precedent that the previous consent of the appropriate Government has been given to the acquisition. The "previous consent" itself of the appropriate Government is made to depend upon the satisfaction of that Government that the purpose of the acquisition was as laid down in Section 40. It is, thus, clear that the provisions of Sections 39-41 lay down conditions precedent to the application of the machinery of the Land Acquisition Act, if the acquisition is meant for a company. Now, Section 6 itself contains the prohibition to the making of the necessary declaration under that section in these terms—

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> 'Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.'

Section 6 is, in terms, made subject to the provisions of Part VII of the Act. The provisions of Part VII, read with Section 6 of the Act, lead to this result that the declaration for the acquisition for a company shall not be made unless the compensation to be awarded for the property is to be paid by a company. The declaration for the acquisition for a public purpose, similarly, cannot be made unless the compensation, wholly or partly, is to be paid out of public funds. Therefore, in the case of an acquisition for a company simpliciter, the declaration cannot be made without satisfying the requirements of Part VII. But, that does not necessarily mean that an acquisition for a company for a public purpose cannot be made otherwise than under the provisions of Part VII, if the cost or a portion of the cost of the acquisition is to come out of public funds. In other words, the essential condition for acquisition for a public purpose is that the cost of the acquisition should be borne, wholly or in part, out of public funds. Hence, an acquisition for a company may also be made for a public purpose, within the meaning of the Act, if a part or the whole of the cost of acquisition is met by public funds. If, on the other hand, the acquisition for a company is to be made at the cost entirely of the Company itself, such an acquisition comes under the provisions of Part VII. As in the present instance, it appears that part at any rate of the compensation to be awarded for the acquisition is to come eventually from out of public revenues, it must be held that the acquisition is not for a company simpliciter. It was not, therefore, necessary to go through the procedure prescribed by Part VII. We, therefore, agree with the conclusion of the High Court, though not for the same reasons."

97. In the present case, the respondents have clearly taken a stand that the amount of compensation for the proposed

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acquisition of the subject land would be arranged by respondent No.6-MVF, which is a private company. This factor assumes significance and takes the wind out of the argument of the respondents that the acquisition is for public purpose.

98. The respondents have relied upon the 'pass through' method employed in the present case for acquiring the subject land. The respondent-MIDC has specifically contended that the statutory basis for acquisition by such 'pass through' method, is found in Section 39(1)(a) of the MID Act. A perusal of the said provision, quoted hereinabove, would show that it pertains to the power in respondent-MIDC to dispose of any land acquired by the State Government and transferred to it, without undertaking or carrying out any development thereon. But, a perusal of clause (a) of sub-section 2 of the said Section would show that where the MIDC proposes to dispose of by sale any such land without any development being undertaken or carried out thereon, it shall offer the land in the first instance to the persons from whom it was acquired, if they desire to purchase it, subject to such requirements as to its development and use as MIDC may think fit to impose.

99. This statutory condition is completely ignored by the respondent-MIDC, when it specifically relied upon Section 39(1)(a) of the MID Act, to claim that it can be a statutory basis for the 'pass through' method of acquisition and handing over the subject land to respondent No.6-MVF, which is a private company. Clause

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(b) of sub-section 2 of Section 39 of the MID Act also assumes significance in this context. But, the entirety of the aforesaid provision and the interplay between its sub-sections has been ignored by respondent-MIDC, while asserting that the 'pass through' method has its statutory basis in Section 39(1)(a) of the MID Act. In this regard, much was said by the respondents about the petitioner-TPCL itself being beneficiary of such 'pass through' method. Reliance was placed on judgement of this Court in the case of **Pravin Kashinath Bhagat & Ors. vs. Collector, District Raigad & Ors.** *(supra)*. In the first place, that case did not concern a situation where land already utilized for public purpose was sought to be acquired through 'pass through' method. In any case, it concerned acquisition for establishing a 1600 MW power project, which was obviously 'public purpose'.

100. Hence, this Court finds substance in the contention of the petitioner-TPCL that the impugned actions undertaken by the respondent-State and the respondent-MIDC, amount to colourable exercise of power. The respondent-State has sought to achieve its object of acquiring the subject land exclusively for the respondent No.6-MVF under the provisions of the MID Act, which it could not have done in terms of the position of law discussed hereinabove. The respondent-State undertook the impugned actions to avoid acquisition for the respondent-MVF, a private company, under the general law of acquisition i.e. the Act of 2013. An appreciation of the chronology of events referred to

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hereinabove in detail, further strengthens the case of the petitioner-TPCL in this regard.

101. The respondent No.6-MVF identified the land near Thokarwadi Dam, its reservoir and lake as ideal for its purpose and then, set out to claim the same for its purposes. The said exercise started by approaching the Chief Minister of the State of Maharashtra in July 2017, claiming that its project was a mega project concerning a Centre for Perfect Health and it could be treated as an integrated project by the State Government.

102. Thereafter, the continuous interaction between respondent No.6-MVF and the State authorities at the highest level, led to the proposed project being given the status of ultra mega project in March, 2018. In the meanwhile, the respondent-State acquired and handed over the land to the extent of 126 hectares to respondent No.6-MVF for the said project.

103. It is relevant to note that respondent No.6-MVF continued to pursue its claim for acquisition of land of petitioner-TPCL and in that process, even the Chief Minister of the State of Maharashtra sent a letter to Late Mr. Ratan Tata for the said land. This culminated in a meeting between the officials of the petitioner-TPCL, respondent No.6-MVF and the officials of the State of Maharashtra. But, the petitioner-TPCL did not agree to part with the subject 84 hectares of land. This has to be appreciated in the backdrop of MOU dated 08.08.2023 executed

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between the petitioner-TPCL and the respondent-State for establishing the Bhivpuri Pumped Storage Project of 1000 MW, in line with the policy of the State to promote such projects for clean energy in the State of Maharashtra, for which the Central Government was also enthusiastic.

104. It is crucial to note that in this backdrop, when the proposal of respondent No.6-MVF labelled as an ultra mega project, was considered on 01.11.2023 by the HPC, the same was specifically rejected on the ground that the Government did not have a policy to purchase land from a private company and make it available for other projects. The petitioner-TPCL has heavily relied upon GR dated 27.12.2016 to contend that the approval of HPC was mandatory in such cases, even as per the policy of the State. On the other hand, the respondents contended that the approval by HPC under the said GR, was only recommendatory in nature and that it would obviously not bind the authorities of the State Government high up in the hierarchy.

105. It is an admitted position that the Cabinet Sub-Committee took up the said proposal and indicated that acquisition of land could take place by 'pass through' method under the provisions of the MID Act. In furtherance thereof, when the Land Selection Committee of the respondent-MIDC prepared a report on 24.07.2024 and the discussion was on the question as to whether the proposed acquisition of the area was in the best interest of the Corporation, even the Land Selection Committee opined that an

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NOC from petitioner-TPCL was necessary, even if the acquisition was to be undertaken by the 'pass through' method under the MID Act.

106. But within 5 months of the said report of the Land Selection Committee, on 26.12.2024, the respondent-MIDC recommended to the respondent-State that upon reviewing the provisions and procedures under Chapter VI of the MID Act and 'pass through' method of land acquisition, there was no requirement for obtaining NOC from the petitioner-TPCL. Immediately thereafter on 03.03.2025, the impugned notification was issued under Section 1(3) of the MID Act applying Chapter VI thereof to the subject land admeasuring 84 hectares belonging to the petitioner-TPCL, declaring it as an 'industrial area'. This was immediately followed on the next day by Government Resolution dated 04.03.2025 and the impugned notices dated 07.03.2025 under Section 32(2) of the MID Act.

107. The aforesaid chronology of events indicates the manner in which the respondent-State authorities and respondent-MIDC proceeded to attempt to acquire the subject land, purely for the benefit of a private entity like respondent No.6-MVF, while ignoring the fact that the subject land of petitioner-TPCL is part of the hydro electric projects. We find that the fact that the subject land of 84 hectares is already being used for public purpose of Hydro Electric Projects of the petitioner-TPCL demonstrates that the respondents have failed to justify acquisition of the same again

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for the respondent No.6-MVF to establish its project. In this context, the petitioner-TPCL is justified in relying on judgement of the Supreme Court in the case of **V.K.M. Kattha Industries Private Limited Vs. State of Haryana** *(supra)* and that of Madras High Court in the case of **Godrej & Boyce Mfg. Co. Private Limited Vs. SLAO** *(supra)*.

108. Even if the contention raised on behalf of the respondents that the opinion of HPC under the GR dated 27.12.2016, could be treated to be only recommendatory in nature, is to be accepted for the sake of arguments, it clearly indicates that respondent-State authorities and respondent-MIDC had already reached the conclusion in a pre-determined manner to handover the subject 84 hectares land to respondent No.6-MVF, a private entity. The recommendations of its own HPC were overruled. Even the necessity of obtaining an NOC from the petitioner-TPCL was given a go-by and hurriedly the impugned notification, GR and notices were issued in March 2025. The entire focus of the said actions of respondent-State authorities and respondent-MIDC was to benefit the respondent No.6-MVF, thereby giving credence to the contention of the petitioner-TPCL that this was an instance of colourable exercise of power and that the said actions smacked of *mala fide*. In this context, the petitioner-TPCL is justified in relying on judgements of the Supreme Court in the cases of **Patasi Devi Vs. State of Haryana** *(supra)*, **Greater Noida Development Authority Vs. Devendra Kumar** (*supra*) and **Uddar Gagan**

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Properties Limited Vs. Sant Singh *(supra)*.

109. Even though in the present case, we have found hereinabove that respondent-State authorities gave a go-by to the requirement of acquisition of land under the general law i.e. the Act of 2013 and wrongly took recourse to the provisions of the MID Act, thereby vitiating the acquisition, since it was vehemently argued that the respondent No.6-MVF required the subject land for public purpose, it would be necessary to examine the said aspect of the matter also.

110. A perusal of the letter dated 02.04.2018 sent by respondent No.6-MVF to the petitioner-TPCL would show as to the manner in which the said respondent made its demand to the petitioner-TPCL. The relevant portion of the said letter reads as follows:

> "**We therefore request for the following support**:
>
> 1) To kindly allow our foundation to use boats/ such other means of water transportation for the patients and visitors in the lake waters, including use of boats to go from one location to the other of the project.
> 2) To kindly allow lease / sub lease of lands comprised in island in the villages of Borivally and Sindhewadi. We will utilize these islands for cultivation of specific medicinal herbs and also for meditation by visitors.
> 3) To allow lease / sub lease of the foreshore land appertaining the land parcels owned by the company. We will maintain and beautify these land.
> 4) Shifting of electrical poles in the land affecting the health and well-being of the master planning.
> 5) Supply of 2 MW power for the project."

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111. Thereafter, when the Chief Minister of the respondent-State sent a letter to the Late Mr. Ratan Tata, promoting the project of respondent No.6-MVF, it was stated in the said letter dated 25.06.2018 that the outcrops of land (islands) in the reservoir of the Thokarwadi Dam and the hydro electric project of the petitioner-TPCL 'could be ideal for allowing vedic *pandits* to take up vedic chanting'.

112. Thereafter, during the course of proceedings in this writ petition, the respondent No.6-MVF gave up its claim for using the reservoir waters and the land outcrops therein for boating. Instead, the said respondent started claiming that it could build bridges from the main land to the said land outcrops, as a part of its ultra mega project. Thereafter, in the affidavit-in-reply filed on behalf of respondent No.6-MVF in the present writ petition, it was elaborated as to what could be the features of the ultra mega project. The relevant portion of the affidavit-in-reply reads as follows:

> "14. The Project inter-alia comprises of the following;
>
> 14.1 Ayurveda Product Manufacturing:
>
> a. Manufacturing of a wide range of Ayurvedic products, including herbal supplements for digestion, mental health, emotional balance, cardiovascular health, bone and joint health, detoxification, women's health, and immunity.
>
> b. Production of wellness formulations such as therapeutic cils, aroma oils, and herbal remedies based on ancient Vedic knowledge.

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c. Setting up of manufacturing units for organic products, herbal extracts, and health supplements, Vedic Honey.

14.2. Wellness Centres and Therapeutic Facilities:

a. Establishment of wellness centres offering authentic Maharishi Ayurveda therapies such as Panchakarma, detoxification treatments, light therapy, and anti-aging treatments.

b. Development of integrated health and rejuvenation centres based on traditional Ayurvedic principles.

c. Facilities for residential wellness programs, therapeutic retreats, and preventive healthcare.

14.3. Ayurvedic College and Research Institutions:

a. Establishment of a full-fledged Ayurvedic college for education, training, and research in Ayurveda and related fields.

b. Research and development facilities for promoting traditional knowledge systems, clinical trials, and formulation of new Ayurvedic medicines.

c. Research and implementation of Kaya Kalp so as to support the reversal aging process.

14.4. Organic Agriculture and Medicinal Plantations:

a. Cultivation of medicinal plants, herbs, and organic agricultural produce in dedicated farming zones.

b. Promotion of sustainable and organic farming practices aligned with Ayurvedic principles.

c. Manufacturing of organic product from the produce of farmer

14.5. Agro-Tourism and Educational Tourism:

a. Development of agro-tourism zones to provide experiential learning on organic farming, medicinal plants, and Ayurveda.

b. Creation of Vedic- educational theme parks,

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museuns, and interactive exhibits showcasing Vedic sciences and traditions.

c. Facilities for cultural and heritage tourism, including bonsai gardens, meditation centres, and the Tower of Invincibility.

14.6. Healthcare Infrastructure:

a. Setting up an Integrated Hospital offering holistic healthcare based on Ayurveda and modern medical systems.

b. Facilities for in-patient and out-patient care, including specialty Ayurvedic treatments.

14.7. Supporting Infrastructure:

a. Development of convention centres, research labs, university facilities, restaurants, shopping markets, and ancillary units to support the ecosystem.

b. Green infrastructure, landscaping, and sustainability-focused amenities."

113. It was further claimed that the project would generate employment for over 1000 persons. In the oral arguments made before this Court on behalf of respondent No.6-MVF, much emphasis was placed on the Industrial Policy of the State of Maharashtra to encourage such projects that would generate employment.

114. We are of the opinion that when an examination is to be carried out to ascertain the 'public purpose' of a proposed project, the focus has to be on examining as to whether the primary object of the proposed project is for public purpose or not. Any activity undertaken by a private company is likely to generate

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employment. But, the question is, as to whether that in itself would be enough.

115. In the case of **K. T. Plantation Private Limited Vs. State of Karnataka** (*supra*), a Constitution Bench of the Supreme Court, in the context of the concept of public purpose, held that the power of eminent domain, which applies when a person is deprived of his property, postulates that the purpose must be primarily public and not primarily of private interest and merely incidentally beneficial to the public. In the present case, the above-quoted features of the proposed project of respondent No.6-MVF indicate the primary purpose to be private interest and only incidentally beneficial to the public. This has to be appreciated in the backdrop of the fact that the subject 84 hectares land of the petitioner-TPCL is part of the hydro electric projects.

116. In August 2023 itself, the respondent-State executed the aforesaid MOU with the petitioner-TPCL for the 1000 MW Bhivpuri Pumped Storage Project. The subject 84 hectares of land, including the two land outcrops in the reservoir of the Thokarwadi Dam concerning the Bhivpuri Hydro Electric Projects, continues to be a part of the public purpose for which the said piece of land along with the other lands, was handed over to the predecessor of the petitioner-TPCL more than a century ago. The aforesaid Pumped Storage Policy of the respondent-State itself, with active encouragement from the Central Government for providing clean energy and non-conventional sources of

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energy, clearly indicates the primary public purpose for which the subject 84 hectares land is being utilized by the petitioner-TPCL.

117. It is an admitted position that respondent No.6-MVF is already a beneficiary of 126 hectares of land for its 'ultra mega project' and yet, it is insisting upon acquisition of the aforesaid 84 hectares of land of the petitioner-TPCL and that too, in the teeth of the aforesaid recommendations and opinions of the HPC of respondent-State and the Land Selection Committee of respondent-MIDC. The facts of the present case indicate that recourse to the provisions of the MID Act and the aforesaid manner in which the higher authorities of respondent-State and respondent-MIDC have sought to acquire the subject piece of land of 84 hectares, is more for benefiting the private entity, respondent No.6-MVF, for its private enterprise at the expense of the aforesaid activity for public purpose i.e. generating hydro electric power of the petitioner-TPCL. We find that the judgement in the case of **Girias Investment Private Limited & Anr. vs. State of Karnataka & Ors.** *(supra)*, relied upon by respondent No.5-MIDC, as a matter of fact inures to the benefit of the petitioner-TPCL because the impugned actions of the said respondent and the State are found to be aimed at benefiting the respondent No.6-MVF, resulting in damage to the petitioner-TPCL.

118. There is absolutely no material brought to the notice of this Court to indicate why the subject 84 hectares of land is so crucial for the 'ultra mega project' of respondent No.6-MVF, or that the

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126 hectares of land it already has, is not sufficient. It is undisputed that even the 126 hectares land is near and overlooking the reservoir/lake of the Thokarwadi Dam. The communications addressed by respondent No.6-MVF show that it is insisting on the 84 hectares of land of the petitioner-TPCL, including the two land outcrops in the reservoir, for aesthetic purposes only. It is also not shown why the ultra mega project of respondent No.6-MVF will fail if the subject 84 hectares of land is not acquired. Although the proposed project of the respondent No.6-MVF is not covered under Section 10A (Maharashtra amendment) of the Act of 2013, even it were to apply for the sake of argument, the proviso to the same mandates that before issuing notification under the said provision, the State Government shall ensure the extent of land for proposed acquisition keeping in view the bare minimum land required for such project. The respondents have failed on this score also. As per the said respondent, the said 84 hectares of land is required for aesthetic purposes and 'vedic chanting', for which purpose bridges are proposed to connect the two land outcrops. Can this be at the expense of the hydro-electric projects of the petitioner-TPCL and its catchment area? We find that in such a situation, the petitioner-TPCL has made out a case to successfully challenge the impugned action of the respondents.

119. The respondents also raised an objection regarding the maintainability of the writ petition, on the ground that the show cause notice was issued by respondent No.3-SDO under Section

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32(2) of the MID Act, to which the petitioner-TPCL had responded and even the hearing was completed. In such a situation, the proceeding before the said respondent ought not to be interdicted and the objections would certainly be considered in the subject proceedings. It was submitted that the writ petition could be said to be pre-mature.

120. In this context, we are inclined to accept the contention raised by the petitioner-TPCL, by placing reliance on the judgements of the Supreme Court in the cases of **Siemens Limited Vs. State of Maharashtra** (*supra*) and **Techno Prints Vs. Chattisgarh Textbook Corporation and another** (*supra*).

121. In the case of Siemens Limited Vs. State of Maharashtra (supra), the Supreme Court observed as follows:

> "9. Although ordinarily a writ court may not exercise its discretionary jurisdiction in entertaining a writ petition questioning a notice to show cause unless the same inter alia appears to have been without jurisdiction as has been held by this Court in some decisions including *State of U.P. v. Brahm Datt Sharma, Special Director v. Mohd. Ghulam Ghouse* and *Union of India v. Kunisetty Satyanarayana*, but the question herein has to be considered from a different angle viz, when a notice is issued with premeditation, a writ petition would be maintainable. In such an event, even if the court directs the statutory authority to hear the matter afresh, ordinarily such hearing would not yield any fruitful purpose. (See *K.I. Shephard v. Union of India*) It is evident in the instant case that the respondent has clearly made up its mind. It explicitly said so both in the counter-affidavit as also in its purported show-cause notice."

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122. In the case of **Techno Prints Vs. Chattisgarh Textbook Corporation and another** (*supra*), the Supreme Court acknowledged the fact that ordinarily, a writ court should not entertain a petition seeking to challenge a show cause notice, unless the same was issued by an authority without jurisdiction or if the same was tainted with *mala fide*. But, the Supreme Court went on to observe as follows:

> "36. In the overall view of the matter more particularly in the peculiar facts of the case, we have reached the conclusion that asking the appellant herein to file his reply to the show cause notice and then await the final order which may perhaps go against him, leaving him with no option but to challenge the same before the jurisdictional High Court will be nothing but an empty formality. Even otherwise, issuing of show cause notice if not always then at least most of the times is just an empty formality because at the very point of time the show cause notice is issued the Authority has made up its mind to ultimately pass the final order blacklisting the Contractor. In other words, the show cause notice in most of the cases is issued with a predetermined mind. It has got to be issued because this Court has said that without giving an opportunity of hearing there cannot be any order of blacklisting. To meet with this just a formality is completed by the Authority of issuing a show cause notice."

123. We have already found that in the present case, higher authorities of the State of Maharashtra, including the Cabinet Sub-Committee, over ruled the opinion of the HPC of the State and Land Selection Committee of respondent-MIDC to virtually direct the respondent-MIDC to propose that recourse should be taken to Chapter VI of the MID Act, in the context of the subject land admeasuring about 84 hectares. On such a 'proposal' sent by the

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respondent-MIDC, the respondent-State issued the impugned notification, Government Resolution and notices. In such a situation, it is obvious that an officer of the level of Sub-divisional Officer, would be in no position to consider the objections raised by the petitioner-TPCL, which have been specifically raised in the present writ petition.

124. The objections raising Constitutional challenges are also beyond the jurisdiction of the SDO and in any case, the pre-determined nature of the proceedings before the SDO is obvious and the result of the said proceeding can be said to be a foregone conclusion. Therefore, in the facts of the present case, the writ petition is clearly maintainable and the said ground raised on behalf of the respondents is rejected.

125. At a point in time, a submission was sought to be made by the learned senior counsel appearing for respondent No.6-MVF, to the effect that since declaration of industrial area under Section1(3) of the MID Act, amounted to subordinate legislation, no ground of *mala fide* could be raised in the context of such a legislative act. The said contention is stated only to be rejected, for the reason that when the State exercises the power under such a delegated legislation, it cannot be immune to examination by Court as to whether it amounts to colourable exercise of power or whether it is actuated by malice. In the facts of the present case, both the factors are obvious and there is no substance in the said contention.

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126. Apart from this, there were certain other issues debated during the course of arguments, including the effect on environment and ecology concerning Thokarwadi Dam and its catchment area, as also the security of the said establishment. We find that since the said area has not been declared as an ecologically sensitive area, the said issue may not require detailed examination and in any case, if the project of respondent No.6-MVF is to go ahead, it will certainly require environmental clearances.

127. But, we do find substance in the contention of the petitioner-TPCL that the proposal of respondent No.6-MVF of building bridges from the main land to the land outcrops (islands) in the reservoir/lake of Thokarwadi Dam concerning the hydro electric project, could be a security risk and it may even violate the norms laid down by the respondent-State itself. In this context, a perusal of the Government Circular dated 08.03.2018 shows that it pertains to norms to be followed, while carrying out development activity in the vicinity of dams and their catchment areas.

128. We find substance in the contention of the petitioner-TPCL that clause 2(1) of the said Circular would be applicable to the present case, which mandates that any such development activity cannot be undertaken within 500 metres of the high-flood line of the dam. This indicates that the subject land admeasuring 84 hectares, which includes the two land outcrops (islands) in the reservoir and a strip adjoining the reservoir, can certainly not be

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utilized for development activity. This further indicates why the proposed acquisition cannot be undertaken in the facts and circumstances of the present case.

129. The rival contentions raised on the aspect of the subject land being a 'prohibited' or a 'protected' place, need not be considered in the light of the detailed findings rendered hereinabove on the arguments addressed on behalf of the rival parties in the present case.

130. As regards the judgements upon which the respondents have placed reliance, we find that the said judgements pertain to the aspect of eminent domain [**Sooraram Pratap Reddy Vs. Collector** (*supra*), **Kedar Nath Yadav vs. State of West Bengal** (*supra*), **Jilubhai Nanabhai Khachar Vs. State of Gujarat** (*supra*) and **State of Bihar Vs. Sri Kameshwar Singh** *(supra)*]. But, in the light of the findings rendered hereinabove, we find that the said judgements cannot inure to the benefit of the respondents, as the inherent power of eminent domain is not unbridled but it has to be exercised for public purpose and not for the benefit of a company, without any reference to such a purpose. The respondents are also not justified in relying on the judgement of the Supreme Court in the case of **Hindustan Petroleum Vs. Darius Shapur** (*supra)*, for the proposition that industry is public purpose, for the reason that acquisition in the said case was for a corporation owned and controlled by the State. In the present case, the acquisition is purely for a private company. Similarly reliance placed by the

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respondents on the judgement of the Supreme Court in the case of **P. Narayanappa & Anr. vs. State of Karnataka & Ors.** *(supra)*, for the proposition that acquisition can be for a single company or industry, is also misplaced. This is for the reason that in the said case, the State owned Corporation acquired the land, with the same vesting in it, and thereupon it was given to a single company for a limited lease of 11 years and subject to strict conditions. But, in the present case, the land is being made over to the respondent No.6-MVF, a private entity on it depositing the amount for compensation.

131. On the other hand, we find that the petitioner-TPCL is justified in relying upon a recent judgement of Karnataka High Court in the case of *Mukesh Kumar vs. State of Karnataka and others*, **2026 SCC OnLine Kar 4019**, wherein the Court was concerned with a similar situation of acquisition of land under the provisions of Karnataka Industrial Area Development Act, 1966. The acquisition in the said case was undertaken for the benefit of a company by recourse to under the provisions of the said Act. The High Court held that the said Act did not contemplate acquisition of land for an individual entity and that such an acquisition cannot be said to be for public purpose. It was specifically held that if the land was not acquired either for the Board constituted under the said Act, or for any other purpose in furtherance of the object of the Act, such acquisition was *mala fide*, illegal and amounted to colourable exercise of power.

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132. The High Court took into consideration the activities of the private entity in whose favour the acquisition was undertaken and held that acquisition for such a private interest, which merely incidentally benefited the public, was against the foundational principle of the Constitution, as also the mandate of Article 300A thereof and the Rule of law. It was found that such an acquisition was merely a device to transfer land into private hands, which could not be permitted.

133. It was brought to the notice of this Court that a challenge raised to the said judgement of Karnataka High Court in SLP (Civil) No.23769-23780 of 2026, was rejected and the special leave petitions were dismissed. The only remark made by the Supreme Court while dismissing the special leave petitions, was that the observation made by the High Court that a fraud on Statute was committed in the process of acquisition of land, would not operate as a precedent. In our opinion, the said remark does not take away the position of law elaborated in the said judgement of Karnataka High Court, which indeed has persuasive value.

134. In view of the above discussion, we find that the petitioner-TPCL has made out a strong case in its favour, while challenging the impugned actions of respondent-State authorities and respondent-MIDC. The manner in which the subject land admeasuring 84 hectares, which is still a part of the hydro electric projects of the petitioner-TPCL, is sought to be acquired and handed over to respondent-MVF, which is a private entity, cannot

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be sustained and therefore, the writ petition deserves to be allowed.

ORDER

135. Accordingly, the writ petition is allowed in terms of prayer clauses (a) to (c), which read as follows:

> "a) That this Hon'ble Court be pleased to issue a writ of Certiorari or any other appropriate writ, order, or direction under Article 226 of the Constitution of India calling for the records and proceedings of issuance of Impugned Notification No. IDC 2025/(C.R.01)/Ind. 14 dated 03.03.2025 (Exhibit 'O') issued by Respondent No. 2 and after going through the legality, validity and propriety of the same, the same be quashed and set aside;
>
> b) that this Hon'ble Court be pleased to issue a writ of Certiorari or any other appropriate writ, order, or direction under article 226 of the Constitution of India calling for the records and proceedings of issuance of Impugned Notification No. IDC 2025/(Sr. No. 01/U-14 dated 04.03.2025 issued by Industries, Energy, Labour And Mining Department/ Respondent No. 2 (Exhibit 'P') and after going through the legality, validity and propriety of the same, the same be quashed and set aside;
>
> c) that this Hon'ble Court be pleased to issue a writ of Certiorari or any other appropriate writ, order, or direction under article 226 of the Constitution of India calling for the records and proceedings of issuance of Impugned Show Cause Notices dated 07.03.2025 (Exhibit 'R') issued by the Respondent No. 3 and after going through the legality, validity and propriety of the same, the same be quashed and set aside;"

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136. Consequently, the proposed acquisition proceedings for the subject 84 hectares land of the petitioner-TPCL are quashed and the proceedings pending before respondent No.3-SDO stand disposed of. Pending applications in this writ petition, if any, also stand disposed of.

(SHREERAM V. SHIRSAT, J.) **(MANISH PITALE, J.)**

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