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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 3462/2024 & CM APPL. 14147/2024

DR. SYEDA SAIYIDAIN HAMEDA & ORS. Petitioners

Through: Mr. Anand Grover, Senior Advocate with Mr. Fuzail Ahmad Ayyubi, Mr. Ibad Mushtaq, Mr. Rohin Bhatt, Ms. Akanksha Rai, Ms. Gurneet Kaur, Mr. Syed Ashhar and Mr. Akram Pasha, Advocates

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Chetan Sharma, ASG, Mr. Vineet Dhanda, CGSC, Mr. Amit Gupta, Mr. Vinay Yadav, Mr. Saurabh Tripathi, Mr. Vikramaditya Singh, Ms. Gurleen Kaur, Mr. Archit Aggarwal, Advocates for R-1 with Mr. Amit Acharya, G.P., Ms. Mompi Dey, Legal Consultant, Ministry of Minority Affairs
Mr. Hashmat Nabi along with Mr. Arham Raza and Mr. Tousif Ahmad, Advocates for R-2
Mr. Anurag Ojha with Mr. Subham Kumar, Advocates for R-3

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*Reserved on: 13th March, 2024**Date of Decision: 16th April, 2024***CORAM:****HON'BLE THE ACTING CHIEF JUSTICE****HON'BLE MS. JUSTICE MINI PUSHKARNA****JUDGMENT****MINI PUSHKARNA, J:**

1. The present Public Interest Litigation (“PIL”) has been filed seeking



quashing of the Office Order dated 07th February, 2024 issued by the respondent no.1-Ministry of Minority Affairs, Government of India (“Ministry”). By way of the said Office Order, the respondent no.1-Ministry had accepted the proposal by the Central Waqf Council (“CWC”) to dissolve the Maulana Azad Education Foundation (“MAEF”).

2. During the pendency of the present petition, the respondent no.1-Ministry placed on record the Minutes of the Meeting of the General Body of MAEF held on 07th March, 2024, wherein a unanimous decision to dissolve the MAEF was taken. Thus, an application seeking amendment of the writ petition was filed by the petitioner seeking to challenge the aforesaid Resolution dated 07th March, 2024 passed by the General Body of MAEF and praying for its quashing. Though the said application was not listed before the Court, yet photocopy of the same was taken on record and the petitioner was allowed to make his submissions with regard thereto.

3. Relevant facts, as manifest from the pleadings on record, are as follows:

3.1 MAEF was created by the CWC which was an advisory body to the Ministry of Social Justice and Empowerment, Government of India, where in its 28th Meeting held on 27th December, 1988, the CWC passed a Resolution to constitute MAEF. Thereafter, the MAEF was established as a registered society under the Societies Registration Act, 1860 (“the Act, 1860”) on 6th July, 1989.

3.2 The Memorandum of Association of the MAEF *inter-alia* provides its objectives as to formulate and implement educational schemes and plans for the benefit of the Educationally Backward Minorities to aid and provide assistance to institutions promoting education amongst the Educationally



Backward Minorities and to establish residential schools, especially for girls, in order to provide modern education to the said minorities.

3.3 As per the Rules and Regulations of MAEF, its General Body consists of fifteen members, of which, six, including its President, are its Ex-Officio Members, which consist of the following:

- I. Union Minister of Minority Affairs (President).
- II. Vice Chancellor, Aligarh Muslim University.
- III. Vice Chancellor, Jamia Millia Islamia.
- IV. Joint Secretary, Ministry of Minority Affairs.
- V. Chairman, Education and Women Welfare Committee of the Central Waqf Council.
- VI. Secretary, Central Waqf Council.

3.4 The remaining nine members are to be nominated by the President of the MAEF for a period of three years from the Educationally Backward Minorities belonging to different regions, including Educationists, Scientists, Engineers, Administrators, Doctors, Lawyers, Writers, Industrialists and Social Workers, who can devote time for promoting the cause of education.

3.5 In the year 2006, Ministry of Minority Affairs was established as a separate Ministry and was segregated from the Ministry of Social Justice and Empowerment. Consequently, the CWC got attached with the Ministry of Minority Affairs after its establishment.

3.6 In the month of January, 2024, the CWC proposed closure of the MAEF and sent the said proposal to the respondent no.1-Ministry. Thus, by its Office Order dated 07th February, 2024, the respondent no.1-Ministry communicated the approval of the competent authority for closure of the



MAEF, with direction that the said issue of its closure be placed before its General Body amongst other directions for transfer of funds and fixed assets of the MAEF, so that the process of dissolution of the MAEF was completed as per the applicable laws.

3.7 Against the aforesaid Office Order dated 07th February, 2024 issued by the respondent no.1-Ministry, the present PIL has been filed. As noted above, during the pendency of the present petition, the General Body of the MAEF in its meeting held on 07th March, 2024 resolved to dissolve the MAEF, a registered Society, as per the Bye Laws of the said Society and as per the provisions of the Act, 1860. The said Minutes of the Meeting dated 07th March, 2024 held by the General Body of the MAEF were also challenged by way of an amendment application filed by the petitioner. The petitioners were also allowed to address arguments on the contents of the said amendment application at the time of final hearing.

4. On behalf of the petitioners, the following submissions have been made:-

4.1 The MAEF was established as an Autonomous Society under the Act, 1860 and cannot act at the dictates of the Union of India.

4.2 As per the data available publicly, the MAEF, between 2003-04 and 2021-22 had sanctioned 12,88,954 Scholarships to girls belonging to Educationally Backward Minorities amounting to Rs. 884.87 Crores. It had provided infrastructural support (Building Grant) in as many as 1636 projects amounting to Rs. 221 Crores since 1994-1995.

4.3 While the budgetary allocation of the MAEF had been slashed, the respondent no.1-Ministry had continued to maintain that the MAEF had sufficient funds from interest earned on its corpus to meet its requirements



for promoting education for the educationally backward minority students in the country.

4.4 Office Order dated 07th February, 2024 issued by the respondent no.1-Ministry discloses that the decision is being taken by a colourable exercise of authority by the respondent no.1-Ministry.

4.5 Tenure of majority members of MAEF had already expired in the year 2023. The CWC had not been reconstituted for over a year and its present Secretary is a Director of respondent no.1-Ministry, having additional charge. Further, the Secretary of the MAEF itself is also a Director in the respondent no.1-Ministry. Thus, while the Office Order dated 07th February, 2024, gives the impression as if the Ministry is only approving the proposal by the CWC, the same, in effect, has been issued arbitrarily and unilaterally by the respondent no.1-Ministry itself to the extent that it mandates the MAEF to propose its own closure for no rhyme or reason.

4.6 The decision to close the MAEF, apart from being completely contrary to the procedure provided by the Act, 1860, violates the Right to Education and Right to Equality of the Educationally Backward Minorities under Articles 14, 19 and 21 of the Constitution of India.

4.7 The Resolution dated 07th March, 2024 by the purported General Body of the MAEF, is illegal and contrary to the statutory regime contained in Sections 13 and 14 of the Act, and Rules and Regulations framed thereunder.

4.8 As per Section 13 of the Act, 1860, a Society may be dissolved, when any number not less than three-fifths of the Members of that Society may determine that it shall be dissolved.

4.9 As per Section 14 of the Act, it is mandated that the property of the



Society, after settlement of its debts and liabilities, be transferred to a society with likeminded objects. Further, even Clause 10 of Section II of the Rules and Regulations of the MAEF provides for transfer of assets of the MAEF, upon its dissolution, to some other institutions having objects similar to the objects of the MAEF. The MAEF had been granting scholarships to girls belonging to minority section. However, the Central Government schemes do not envisage scholarship for girls belonging to the minority section. The schemes of the Central Government are general in nature and are not specific for the minority community. Since funds of the MAEF can go to only likeminded societies, the impugned order dated 07th February, 2024 regarding transfer of funds of the MAEF, is patently illegal. The funds and assets of MAEF cannot be transferred to the Consolidated Fund of India or to the CWC.

4.10 The Secretary, CWC, himself being an Ex-Officio Member of the MAEF, could not have proposed for the dissolution of the MAEF to the respondent no.1-Ministry, except by proposing such dissolution in the General Body Meeting of the MAEF.

4.11 The manner in which the impugned order dated 07th February, 2024 has been passed, is thoroughly perverse, illegal and guided by malafides. The same is *dehors* of all the statutory provisions as well as the Memorandum of Association and the Rules and Regulations of the Society.

4.12 The appointment of the nominated members of the MAEF are clearly contrary to Clause 2 of Section II of the Rules and Regulations of the MAEF. The six nominated members are based in Delhi. They are not from different regions of the country and are not able to devote the requisite time to the work of the MAEF.



4.13 If there are irregularities in the working of the MAEF, then Government itself is responsible for the same, as many of the members of its General Body are members of the respondent no.1-Ministry as well.

4.14 In support of his submissions, learned Senior Counsel appearing for the petitioners has relied upon the following judgments:

1. ***E.P. Royappa V. State of Tamil Nadu and Another, (1974) 4 SCC 3.***
2. ***S.G. Jaisinghani V. Union of India and Others, 1967 SCC OnLine SC 6.***
3. ***Manoj Kumar V. Union of India and Others, 2024 SCC OnLine SC 163.***
4. ***State of Punjab and Another V. Gurdial Singh and Others, (1980) 2 SCC 471.***
5. ***Smt. Damyanti Naranga V. Union of India and Others, (1971) 1 SCC 678.***

5. Per contra, on behalf of the respondents, the following submissions have been made:-

5.1 Respondent no.1-Ministry possesses its own budgetary allocation dedicated to the educational and economic empowerment of the minority communities. Therefore, the dissolution of MAEF would not jeopardize the interest of the minorities.

5.2 The respondent no.1-Ministry has disbursed scholarships to 7,83,66,253 minority students during the years 2010-11 to 2021-22. Further, specifically during this period, there were 4,04,92,382 minority girls who received scholarships from the respondent no.1-Ministry.

5.3 The respondent no.1-Ministry has floated various schemes which are



for the benefit of the minorities. Provisions have been made for imparting skill training to the minority youth through various skill programmes. Thus, various projects and initiatives formerly conducted under the MAEF, have been integrated into comparable initiatives under the Ministry's ongoing schemes.

5.4 The Act, 1860 does not give any format of disbursal. Further, the entire dissolution of the MAEF is as per the Resolution of the General Body of the MAEF.

6. Having heard learned counsel for the parties and having perused the record, this Court, at the outset, notes that the primary objective of establishing MAEF was to advance education among Educationally Backward Minorities through various initiatives, including scholarship programmes and skill development programmes for minority youth. The MAEF was established as a Society under the Act, 1860 on 06th July, 1989.

7. Subsequently, in the year 2006, the respondent no.1-Ministry was established, having been segregated from the Ministry of Social Justice and Empowerment, Government of India. As submitted on behalf of respondents, the respondent no.1-Ministry was created with an aim to specially address the needs of the minority communities through diverse schemes and programmes. The respondent no.1-Ministry has introduced many welfare programmes for the educational and economic empowerment of the minority communities.

8. This Court also notes the stand of the respondents that after the formation of the Ministry of Minority Affairs, various programmes and initiatives have been introduced in areas with high minority population throughout the country. Thus, the various programmes undertaken by the



respondent no.1-Ministry have been explained in their affidavit as follows:-

“xxx xxx xxx

15. It is asserted that since its formation, the Answering Respondent has introduced various programs and initiatives aimed at education, skill development, research fellowships, and infrastructure enhancement in areas with high minority populations throughout the country. Since the fiscal year 2006-07, the Respondent has allocated a total of Rs. 43,673 crore towards activities benefiting the minority communities. Specifically, Rs. 20,133.09 crores was dedicated to educational empowerment from 2011-12 to 2021-22, Rs. 2,196,22 crore for skill development from 2012-13 to 2021-22, and Rs. 9,704.45 crore towards infrastructure development from 2014-15 to 2023-24. Detailed year-wise expenditure reports of the Ministry with copies of the detailed expenditure records attached hereto are annexed and marked as **Annexure-R-3**.

16. In addition to the above, the Respondent has facilitated livelihood opportunities, including skill development, for over 5.88 lakh minority youth through various skilling programs like ‘Seekho Aur Kamao’, ‘USTTAD’, and others, spanning from 2013-14 to 2021-22. A detailed year-wise breakdown of these is annexed and marked as **Annexure-R-4**.

17. Furthermore, the Respondent has delivered 5.97 lakh infrastructure units related to education, health, sports, sanitation, skilling etc. in areas densely populated by minorities, significantly benefiting the community from 2008-09 to 2023-24. The sector-wise provision of infrastructure annexed and marked as **Annexure-R-5**. Additionally, concessional loans were extended through the National Minority Development Finance Corporation to 23.76 lakh beneficiaries. Detailed year-wise information on these initiatives is annexed and marked as **Annexure-R-6**.

18. On the other hand, over the extensive period since its establishment in 1989, the MAEF has achieved only the following:

It disbursed scholarships of Rs. 884.87 crore to minority girls, provided Rs. 221.0 crore in Grant-in-Aid for infrastructure projects, and allocated Rs. 282.30 crore for skill development initiatives under the Garib Nawaz Employment Scheme. Despite the long timeframe, these efforts have resulted in scholarships for only 12.89 lakh girl students, support to 1636 NGOs through Grant-In-Aid, and skill training for only 64,597 trainees under the Gharib Nawaz Employment Programme. These figures highlight the limited scope of MAEF's impact over the years. Furthermore, an examination of MAEF's scheme records reveals from the fiscal years 2017-18 to 2021-22, only 11% of scholarships under the Begum Hazrat



Mahal Scholarship Scheme were awarded to a five out of six minority communities leading to non equitable distribution amongst the minority communities. A similar pattern is evident from the other schemes implemented by MAEF. It is posited that the initiatives undertaken by the Ministry encompass a more inclusive approach compared to the programs and schemes facilitated by the MAEF.

19. In contrast, the Ministry has streamlined its efforts to serve minority communities by consolidating a vast array of programs, which has resulted in significant cost savings, eliminated redundant efforts, and reduced the overall expense of public service delivery. In light of these efficiencies, persisting with an analogous service delivery model via the MAEF, which does not offer additional value, contradicts the Ministry’s policy objectives aimed at efficient service delivery. Dissolving the MAEF will further enhance cost-effectiveness, prevent overlapping of services, and decrease the financial burden of public service provision. Adopting this more streamlined greater benefits. The Ministry of Minority Affairs, dedicated to policy formulation, planning, coordination, evaluation, and regulatory oversight, will directly assume responsibility for ensuring the educational advancement of minority communities, reinforcing the Central Government’s commitment to their welfare.

xxx xxx xxx”

9. At this stage, it would be fruitful to refer to the table submitted by the respondents showing the various schemes implemented by the respondent no.1-Ministry with the objective of providing scholarship and other training programmes to the persons from minority communities, including scholarship to young girls belonging to the minority communities. The table showing the various schemes introduced by the Ministry of Home Affairs in comparison to the MAEF, is reproduced as under:-

| <i>Sl no.</i> | <i>MAEF</i> | <i>Ministry of Minority Affairs</i> |
|---------------|--|--|
| <i>1</i> | <i>Grant in Aid Scheme:</i> <i>“To provide basic educational infrastructure and facilities on the area of concentration of educationally backward minorities which do not have adequate provision for elementary, secondary schools and Sr. Sec. Schools/Jr. Colleges/Professional</i> | <i>The Pradhan Mantri Jan Vikas Karyakram (PMJVK)</i> <i>is a Centrally Sponsored Scheme, which is being implemented by the Ministry of Minority Affairs with the objective to develop infrastructure projects, which</i> |



| | | |
|--------|---|--|
| | <p><i>& Vocational Training Institutes. Assisted More than 1600 projects between 1994-95 and 2022-23.</i></p> | <p><i>are community assets, in the identified area with development deficits for socio-economic development of the said areas.</i></p> <p><i>For eg. Construction of schools, additional classrooms, hostels, computer literacy centres/digital education centres, science laboratories in schools, basic support infrastructure, drinking water units, toilets in schools, slow learner centres, Degree Colleges, higher institutes of technical studies such as Medical, Nursing Colleges, Agriculture Colleges, etc.</i></p> <p><i>Rs. 9,704.45 crore was spent towards infrastructure development in various sectors. Out of total 5,96,869 infrastructure projects sanctioned by the Ministry, 74,442 are pertaining to modernization of education for the period 2008-09 to 2021-22.</i></p> |
| 2 | <p><i>Scholarship Scheme commenced only in 2003-04 while the fundamental object for which the MAEF has been working was providing infrastructural support at grassroots level.</i></p> <p><i>As per date available MAEF had sanctioned 12,88,954 scholarships to girls belonging to educationally backward minorities amounting to Rs. 884. 87 crores from the period 2003-04 to 2021-22.</i></p> | <p><i>Number of minority girls beneficiary is 2,67,37,718 for the year 2014-15 to 2021-22.</i></p> |
| 3 | <p><i>Delinking from CWC</i></p> | <p><i>It was delinked from CWC and was under administrative control of the erstwhile Ministry of Welfare.</i></p> |
| Sector | <p><i>Total Works/Activity undertaken by the MAEF</i></p> | <p><i>Total Works/Activity undertaken by Ministry</i></p> |



| | | |
|----------------|---|---|
| Infrastructure | 1636 projects | Sanctioned 5,96,000 projects amounting to Rs. 9,704.45 crore from the period 2008-09 to 2021-22. During 2022-23 the expenditure of Rs. 222.66 crore. The allocation of funds during the year 2023-24 is Rs 550 crore. |
| Scholarship | 12,88,954 scholarship to girls amounting to Rs. 884.87 crores from the period 2003-04 to 2021-22 . | The total scholarship provided by the Ministry from the period 2010-11 to 2021-22 are 7,83,66,253 . Out of this 2,67,37,718 scholarships were provided to girls from the period 2014-15 to 2021-22 . The total amounting to Rs. 20,113 crores from the period 2010-11 to 2021-22. The expenditure during 2022-23 is Rs. 107.83 crore. The allocation of fund during the year 2023-24 for scholarship is Rs 1516.15 crores. |
| Skilling | Total skill training for only 64,597 trainees under the Gharib Nawaj Employment Programme and Rs. 282.30 crore is the total amount sanctioned under this project. | Total skill training of over 5.88 lakhg minority youth through various skilling programs like “Seekho Aur Kamao”, “USTTAD” and other, spanning from 2013-14 to 2021-22 alongwith expenditure of Rs 2196.22 crores. The expenditure during 2022-23 is 83.51 crores, the allocation of funds during the year 2023-24 is Rs 540 crores. |

10. Perusal of the aforesaid table clearly shows that the respondent no.1-Ministry has introduced various programmes designed specifically to cater to the educational and skill development needs of the minority groups. Further, the various initiatives being carried out by the MAEF to advance education amongst the Educationally Backward Minorities, including the



scholarship programmes, have been integrated into comparable programmes and initiatives of the respondent no.1-Ministry. Therefore, the welfare programmes aimed for the minority communities are being carried out devotedly by the respondent no.1-Ministry. Therefore, it cannot be said that the interest of the minority communities for their educational and welfare development, is being hampered in any manner on account of the dissolution of the MAEF.

11. The respondent no.1-Ministry has filed a table along with its affidavit dated 11th March, 2024, wherein it has sought to detail the various schemes and programmes being implemented by the respondent no.1-Ministry, which take care of the various welfare activities being undertaken by the MAEF. The said table detailing the various schemes and programmes being implemented under the aegis of respondent no.1-Ministry, is reproduced as under:

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| <i>The Schemes/ programmes of Maulana Azad Education Foundation vis-a-vis Schemes/Programmes of Ministry:</i> | | |
|---|---|--|
| <i>Schemes/ programmes implemented by MAEF</i> | <i>Schemes/ programmes being implemented in the Ministry taking care of the activities of MAEF</i> | <i>Remarks</i> |
| <i>1.Scholarship Scheme: Begam Hazrat Mahal National Scholarship. A scholarship provided to poor girls of Minorities studying in class IX to XII.</i> | <i>The Ministry is already running 3 Scholarship schemes and the said BHMNS scheme is already subsumed in Pre-Matric and Post Matric Schemes of the Ministry.</i> | <i>Now scheme is being run under DBT and more effective.</i> |
| <i>2.Grant-in Aid Scheme: The aims and objective of the scheme is to provide basic educational</i> | <i>The Pradhan Mantri Jan Vikas Karyakram (PMJVK) is a Centrally Sponsored Scheme, which is being</i> | <i>PMJVK is more comprehensive and</i> |



| | | |
|--|---|--|
| <p><i>infrastructure and facilities in the area of concentration of educationally backward minorities which do not have adequate provision for elementary, secondary schools and Sr. Sec. Schools/ Jr. Colleges/ Professional & Vocational Training institutes.</i></p> | <p><i>implemented by the Ministry of Minority Affairs with the objective a) To improve socio-economic condition of the communities living in the areas through community infrastructure development support. b) Provide basic amenities for improving quality of life of the people. c) Reducing imbalances and development deficit in the identified Minority concentration areas. The type of works undertaken under PMJVK include construction of schools, additional classrooms, hostels, computer labs/digital classrooms, science laboratories in schools, drinking water facilities and toilets in schools, colleges, dispensaries, hospitals, Industrial Training Institutes (ITIs), Polytechnics, working women hostels, sports facilities, public/ community toilets etc.</i></p> | <p><i>broad based programme taking care of all 1312 Minority Concentrated Areas (MCAs) for the stated aims and objectives.</i></p> |
| <p><i>3. Gharib Nawaz Employment Scheme. The MAEF has started the scheme of Gharib Nawaz Employment Scheme for Minorities from the year 2017-18 so that short term job oriented skill development courses may be provided to minorities youth in order to enable them for skill based employment. The said</i></p> | <p><i>Pradhan Mantri Virasat Ka Samvardhan (PM VIKAS), is a skilling initiative from MoMA focusing on the skilling, entrepreneurship and leadership training requirements of the minority and artisan communities across the country. The scheme is intended to be implemented in convergence with the 'Skill India Mission' of</i></p> | <p><i>PM-VIKAS is a more comprehensive and broad based programme taking care of all targeted beneficiaries in convergence with other</i></p> |



| | | |
|--|---|--|
| <p><i>scheme was approved by the General Body of MAEF. This scheme is implemented as per common norms issued by the Ministry of Skill Development & Entrepreneurship (MSD&E) through the empanelled Program Implementation Agencies (PIAs). The scheme would enable the minorities youth especially school dropouts gain sustainable employment opportunities through skill development courses.</i></p> | <p><i>Ministry of Skill Development & Entrepreneurship and through integration with the Skill India Portal (SIP).</i></p> | <p><i>stakeholder Ministries.</i></p> |
| <p><i>Seekho aur kamao. Skill Development Programme Under 'Seekho aur Kamao Scheme' of Ministry of Minority Affairs</i></p> | <p><i>The Ministry of Minority Affairs launched the "Seekho Aur Kamao" Scheme ("Learn and Earn" Scheme) in the year 2013-14, a comprehensive skill development scheme to support productive employment among Minority youth in the age group of 14-45 years with a minimum of 5th-grade pass. Under the scheme, a minimum of 33% of seats are earmarked for girls/women trainees. The objective of the scheme is to upgrade the skills of minority youth in various modern/traditional skills depending upon their qualification, present economic trends, and market potential, which can earn them suitable employment or make them suitably skilled to go for self-employment. The</i></p> | <p><i>MAEF is assisting the Ministry to implement part of Seekho Aur Kamao scheme. Now Ministry will implement it directly through DBT which will be more effective.</i></p> |



| | | |
|--|--|--|
| | <p><i>scheme is primarily implemented by the Project Implementing Agencies (PIAs), who provide skill training in compliance with the National Skills Qualifications Framework (NSQF) and National Skill development corporation (NSDC).</i></p> <p><i>The MAEF also implemented this scheme which is fully funded by the Ministry.</i></p> | |
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12. The respondent no.1-Ministry has also filed a specific affidavit clearly deposing that various scholarship schemes that are being implemented exclusively for the benefit of girls belonging to the minority communities.

Thus, in the affidavit dated 14th March, 2024, it has been stated as follows:-

“I, Dhiraj Kumra, s/o Shiv Chandra Prasad, aged about 45 years, R/o Indirapuram Ghaziabad, working as Under Secretary with Ministry of Minority Affairs, Government of India, having its office at 11th Floor, Pandit Deendayal Antyodaya Bhawan, CGO Complex, Lodhi Road, New Delhi-110003, do hereby solemnly affirm and state as under:

1. *I am acquainted with the facts of this case, I have perused the record, and am competent and authorized to swear this affidavit on behalf of the Union of India, Respondent No. 1 referred to as the (“**Answering Respondent**”).*

2. *The Answering Respondent seeks to place on record by way of the present affidavit the achievements of the Ministry of Minority Affairs specifically in respect of disbursement of scholarship to minority students during 2010-11 to 2021-22. The Ministry has disbursed scholarships to 7,83,66,253 number of minority students. Furthermore, **specifically during this period there were 4,04,92,382** minority girls who received scholarship from the Ministry. The statement of scholarship disbursement for the period 2010-11 to 2021-22 is annexed as Annexure....R1.*

3. *It is again reiterated that the Ministry of Minority Affairs was established, **having been segregated from** the Ministry of Social Justice & Empowerment, Government of India. This creation was aimed at specifically addressing the needs of minority communities through diverse schemes and programs. The Ministry of Minority Affairs now possesses its*



*own budgetary allocation dedicated to the educational and economic empowerment of these **communities**.*

4. *This affidavit is submitted without prejudice to the Union of India's established position that the policy decision to incorporate the affairs of MAEF into the dedicated Ministry of Minority Affairs is a sovereign policy decision, underpinned by the fact that it is **entirely funded by the Union Government**.*

5. *That the present affidavit is bona fide and in the interest of justice.*

6. *That the annexures to the present affidavit are true copies of their respective originals."*

13. As noted above, the MAEF was created by the CWC, which is a statutory body, created under the Waqf Act, 1954. The decision to close the MAEF was taken by the General Body of the MAEF, in the facts and circumstances, as explained in the affidavit of respondent no.1-Ministry, which reads as follows:-

"xxx xxx xxx

6. *The Answering Respondent seeks to address the aforesaid issue by way of the present affidavit. In this respect, it is submitted that the MAEF was created by the Central Waqf Council 'hereinafter referred to as CWC', a statutory body incorporated under the Waqf Act, 1954, which has been amended from time to time. Central Waqf Council is an advisory body to the Central Government which was governed by the Ministry of Social Justice and Empowerment, Government of India, prior to 2006.*

8. *In the 28th meeting of the CWC held on 27.12.1988, in which the resolution to constitute MAEF was passed, the society was mandated to generate its funds for its activities from CWC, Union Government and public. However it was not able to generate much funds from the public. No funds however were provided by the CWC. The Society runs all its activities from the interest generated from corpus funds provided by Central Government or grants provided by Central Government through the Ministry. In case the funds are not being utilised properly, the Ministry of Minority Affairs being representative of Central Government is duty bound to intervene and issue appropriate directions to ensure proper utilisation of its corpus. Since the Society was misusing public funds as shown below, the Ministry had the jurisdiction to issue directions to dissolve the society as per the provisions of the statutes.*

7. *Additionally, in 2006, the Ministry itself was established, having been segregated from the Ministry of Social Justice & Empowerment,*



Government of India. This creation was aimed at specifically addressing the needs of minority communities through diverse schemes and programs. The Ministry of Minority Affairs now possesses its own budgetary allocation dedicated to the educational and economic empowerment of these communities.

8. On 5.11.2022, the General Body of the MAEF convened, during which significant irregularities in the operations of MAEF were detected. As a result, the officials were mandated to execute a thorough audit of the Foundation's financial records. This internal audit unveiled conspicuous financial discrepancies. In light of these discoveries, the Central Waqf Council (CWC) approached the Ministry of Minority Affairs, advocating for the dissolution of MAEF due to its stark inability to fulfill its designated responsibilities. Following a comprehensive evaluation of the CWC's petition, the Ministry directed the dissolution of MAEF in accordance with the Societies Registration Act, 1860. The Ministry's decision to dissolve the foundation was meticulously deliberated, thereby affirming the absence of any malfeasance or arbitrary action in the directive to dissolve the society.

9. As previously noted, the Answering Respondent noted in the Audit Reports significant findings pertaining to the management of MAEF and financial irregularities, including:-

- i) CAG Audit Observation 2008-09.

 - a. Sanction of financial assistance on account of false information*
 - a. Sanction of financial assistance to ineligible NGOs.*
 - b. Release of instalments without following the scheme guidelines.*
 - c. Sanction to financial assistance to incomplete proposals.*
 - d. Excess release of scholarships against the state wise quota.**
- ii) CAG Audit observations (2014-16)

 - a. Irregular award of contract for security Guards*
 - b. Purchase of goods through single source*
 - c. Irregular appointment of Senior Adviser and Consultant,*
 - d. Irregular grant of annual increment.**
- iii) Audit Observations (2016-19)

 - a. Overlapping of schemes of Khwaja Garib Nawaj with the Seekho Aur Kamao scheme of Ministry.*
 - b. Undue benefit to PIA under Khwaja Garib Nawaj Scheme.*
 - c. Wasteful expenditure toward hiring of vehicle.*
 - d. Deployment of excess employees beyond the sanction strength.*
 - e. Irregularities in hiring of vehicles.*
 - f. Non adoption of public finance management**



system (PFMS)

g. Suspected fake vouchers.

h. Failure to disburse scholarships for girls.

i. Non initiation of action against the defaulter NGOs.

iv) Observations of Internal Audit for the period from 2015 to 2021

a. Non utilization of Grant in Aid of amount of Rs. 10000000/-.

b. Non refund of unspent amount of Grant in Aid to the tune of 106.94 crores.

c. Non achievements of target in various schemes.

d. Misuse of Grant in Aid of Rs. 19 Lakhs.

e. Irregularities in award of work amounting to 2,35,00,000/-.

f. Non conduction of physical verification of fixed assets, dead stock, consumer items and improper maintenance of stock register.

g. Non deduction of TDS on GST since 2018.

h. Expired Bank Guarantees to the tune of 10.26 crores etc.

A copy of the brief synopsis of the historical background of MAEF and the Audit Reports/observations is annexed and marked herewith as **Annexure- R2**.

10. The Ministry has conducted a Gap Analysis in implementation of schemes under MAEF and found following irregularities:

i. Grant in Aid schemes:

a) Out of 1636 projects provided under Grant in Aid Scheme, it is found that 523 projects are still incomplete.

b) Out of 523 projects, funds were not released to 44 projects.

c) Moreover, the society failed to recover Rs. 123.21 cr from NGOs on account of non-completion of projects

ii. Gharib Nawaz Employment Scheme (GNES) and Seekho Aur Kamao (SAK) schemes :

a. MAEF has signed MoU with PIAs for Skill Development under "Seekho Aur Kamao (SAK)" and Gharib Nawaz Employment Scheme (GNES)" schemes from 2015-16 to 2020-21 and sanctioned Skilling Program. However, it has failed to release funds even after expiry of stipulated period 'which indicate casual approach of the MAEF and non utilization of public funds for the mandated purpose of the society.

b. Moreover, the MAEF empanelled PIAs without ultimately lead to non completion of assigned targets.

c. Training without NSDC Accreditation: As per SAK guidelines,



NSDC accreditation is essential for Skill training under the scheme. This condition was not complied by MAEF. In many cases, courses were discontinued in NSDC portal.

11. Indeed, the mismanagement characterized by the non- utilization and subsequent accumulation of funds substantially undermines the welfare of the minority communities, constituting a breach of fiduciary duty. Furthermore, the dereliction in executing the mandates entrusted to the MAEF, through the appropriated funds, represents a significant misappropriation of government resources. Therefore, in consideration of the aforementioned deficiencies, the resolution to dissolve the MAEF was legally and morally warranted. This policy determination is anchored in a comprehensive and unequivocal commitment not merely to safeguard but to significantly enhance the socio-economic interests of the minority communities, in accordance with principles of equity and justice.

*12. It is respectfully submitted that the primary mission of MAEF was to advance education among educationally backward minoritie through various initiatives, including scholarship programs, enhancement of infrastructure in minority educational institutions, and skill development for minority youth. However, now, the projects and initiatives formerly conducted under the auspices of the MAEF have been integrated into or replaced by comparable initiatives under the Ministry's ongoing schemes. The skill development endeavor previously undertaken by the Foundation have been folly incorporated into the Pradhan Mantri Virasat ka Samvardhan (PM-VIKAS) Scheme of the Ministry of Minority Affairs, alongside various programs of the Ministry of Skill Development and Entrepreneurship. Moreover, the infrastructure needs of minority-concentrated areas are now being systematically addressed through the Pradhan Mantri Jan Vikas Karyakram (PMJVK), a flagship scheme of the Ministry, which offers a more holistic, inclusive, and comprehensive approach. **The Begum Hazrat Mahal National Scholarship Scheme has been completely taken over by the Ministry for efficient implementation of scheme and equitable distribution among all minority communities, and it is now being implemented through States/UTs by the Ministry of National Scholarship portal (NSP).Since the Ministry is now implementing the scheme through the States/UTs, there is no need to implement through the MANF a NGO/Society***

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14. Further, the General Body of the MAEF in its meeting held on 07th March, 2024 resolved to dissolve the MAEF after considering various issues pertaining to the working of the MAEF and the various schemes under it.



The Minutes of 89th General Body Meeting of MAEF held on 7th March 2024, read as under:

**“Maulana Azad Education Foundation
Minutes of 89th General Body meeting of MAEF held on 7th March 2024”**

Members Present:

| S.No. | Name | Designation |
|--------------|---|--------------------|
| 1. | Smt. Smriti Zubin Irani (Hon’ble Minister of Minority Affairs) | Hon’ble President |
| 2. | Sh. K.R. Meena, Additional Secretary, MoMA | Ex-officio Member |
| 3. | Prof. Mohammad Gulrez, Vice Chancellor, Aligarh Muslim University | Ex-officio Member |
| 4. | Prof. Eqbal Hussain, Vice Chancellor, Jamia Millia Islamia | Ex-officio Member |
| 5. | Sh. S.P. Singh Teotia, Secretary, CWC | Ex-officio Member |
| 6. | Shri Zahid Hussain | Member |
| 7. | Sh. C.P.S Bakshi | Member |
| 8. | Sh. Javed-Ul Hassan | Member |
| 9. | Smt. Yasmin Sultana | Member |
| 10. | Sh. Nazeem Ahmed | Member |
| 11. | Md. Nadeem | Member |
| 12. | Sh. Liyaqat Ali | Member |

Special Invitee

| S.No. | Name | Designation |
|--------------|------------------------------|--------------------|
| 1. | Shri Srinivas R. Katikithala | Secretary, MoMA |

Secretariat

| S.No. | Name | Designation |
|--------------|-----------------|--------------------|
| 1. | Sh. Pawan Kumar | Secretary, MAEF |

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Agenda II:

Dissolution of the Society – Maulana Azad Education Foundation (MAEF) registered under the Societies Registration Act, 1860.

During the meeting it was discussed among the members that MAEF



was created by the Central Waqf Council. In the 28th meeting of the CWC held on 27.12.1988, the resolution to constitute MAEF was passed, the society was mandated to generate its funds for its activities from CWC, Union Government and public. However, it was not able to generate much funds from the public. No funds were provided by the CWC. The Society runs all its activities from the interest generated from corpus funds provided by Central Government or grants provided by Central Government through the Ministry. In case the funds are not being utilised properly, the Ministry of Minority Affairs being representative of Central Government is duty bound to intervene and issue appropriate directions to ensure proper utilisation of its corpus. Since the Society was misusing public funds, the CWC proposed the Ministry to issue directions to dissolve the society as per the provisions of the statutes.

Further, it was discussed that the Ministry of Minority Affairs now possesses its own budgetary allocation dedicated to the educational and economic empowerment of these communities. Therefore, the dissolution of MAEF would not jeopardise the interest of the minorities.

It is relevant to mention here that, the General Body of the MAEF convened on 05.11.2022, already had taken cognizance of the irregularities and inefficiency. During that meeting significant irregularities in the operations of MAEF were detected. As a result, the officials were mandated to execute a thorough audit of the Foundation's financial records. This internal audit unveiled conspicuous financial discrepancies. In light of these discoveries, the Central Waqf Council (CWC) approached the Ministry of Minority Affairs, advocating for the dissolution of MAEF due to its stark inability to fulfill its designated responsibilities. Following a comprehensive evaluation of the CWC's petition, the Ministry directed the dissolution of MAEF in accordance with the Societies Registration Act, 1860.

In the above backdrop, it was further discussed that in the Audit Reports significant findings pertaining to the mis-management of MAEF and financial irregularities, including:-

CAG Audit Observation 2008-09.

- a. Sanction of financial assistance on account of false information*
- b. Sanction of financial assistance to ineligible NGOs*
- c. Release of instalments without following the scheme guidelines.*
- d. Sanction to financial assistance to incomplete proposals.*
- e. Excess release of scholarships against the state wise quota.*

CAG Audit observations (2014-16)

- a. Irregular award of contract for security Guards*



- b. Purchase of goods through single source*
- c. Irregular appointment of Senior Adviser and Consultant,*
- d. Irregular grant of annual increment.*

Audit Observations (2016-19)

- a. Overlapping of schemes of Khwaja Garib Nawaj with the Seekho Aur Kamao scheme of Ministry.*
- b. Undue benefit to PIA under Khwaja Garb Nawaj Scheme.*
- c. Wasteful expenditure toward hiring of vehicle.*
- d. Deployment of excess employees beyond the sanction strength.*
- e. Irregularities in hiring of vehicles.*
- f. Non adoption of public finance management system (PFMS)*
- g. Suspected fake vouchers.*
- h. Failure to disburse scholarships for girls.*
- i. Non initiation of action against the defaulter NGOs.*

Observations of Internal Audit for the period from (2015 to 2021)

- a. Non utilization of Grant in Aid of amount of Rs. 10000000/-.*
- b. Non refund of unspent amount of Grant in Aid to the tune of 106.94 crores.*
- c. Non achievements of target in various schemes.*
- d. Misuse of Grant in Aid of Rs. 19 Lakhs.*
- e. Irregularities in award of work amounting to 2,35,00,000/-*
- f. Non conduction of physical verification of fixed assets, dead stock, consumer items and improper maintenance of stock register.*
- g. Non deduction of TDS on GST since 2018.*
- h. Expired Bank Guarantees to the tune of 10.26 crores etc.*

It had been brought to the notice of the General Body that the Ministry has conducted a Gap. Analysis in implementation of schemes under MAEF and found following irregularities:

i. Grant in Aid schemes:

- a) Out of 1636 projects provided under Grant in Aid Scheme, it is found that 523 projects are still incomplete.*
- b) Out of 523 projects, funds were not released to 44 projects.*
- c) Moreover, the society failed to recover Rs. 123.21 cr from NGOs on account of non-completion of projects.*

ii. Gharib Nawaz Employment Scheme (GNES) and Seekho Aur Kamao (SAK) schemes:

- a. MAEF has signed MoU with PIAs for Skill Development under "Seekho Aur Kamao (SAK)" and Gharib Nawaz Employment Scheme (GNES)" schemes from 2015-16 to 2020-21 and sanctioned Skilling Program. However, it has failed to release funds even after expiry of stipulated period which indicate casual approach of the MAEF and non*



utilization of public funds for the mandated purpose of the society.

b. Moreover, the MAEF empanelled PIAs without submitting experience documents and allocated targets without having requisite financial capabilities which ultimately lead to non completion of assigned targets.

c. Training without NSDC Accreditation: As per SAK guidelines, NSDC accreditation is essential for Skill training under the scheme. This condition was not complied by MAEF. In many cases, courses were discontinued in NSDC portal.

It was unanimously agreed upon by the members that the mismanagement characterized by the non-utilization and subsequent accumulation of funds substantially undermines the welfare of the minority communities, constituting a breach of fiduciary duty. Furthermore, the dereliction in executing the mandates entrusted to the MAEF, through the appropriated funds, represents a significant misappropriation of government resources.

The members also deliberated on the fact that the projects and initiatives formerly conducted under the auspices of the MAEF have been integrated into or replaced by comparable initiatives under the Ministry of Minority Affairs' ongoing schemes. The skill development endeavors previously undertaken by the Foundation have been fully incorporated into the Pradhan Mantri Virasat ka Samvardhan (PM- VIKAS) Scheme of the Ministry of Minority Affairs, alongside various programs of the Ministry of Skill Development and Entrepreneurship. Moreover, the infrastructure needs of minority-concentrated areas are now being systematically addressed through the Pradhan Mantri Jan Vikas Karyakram (PMJVK), a flagship scheme of the Ministry, which offers a more holistic, inclusive, and comprehensive approach. The Begum Hazrat Mahal National Scholarship Scheme has been completely taken over by the Ministry for efficient implementation of scheme and equitable distribution among all minority communities, and it is now being implemented through States/UTs by the Ministry on National Scholarship portal (NSP). Since the Ministry is now implementing the scheme through the States/UTs, there is no need to implement through the MANF a NGO/Society.

It was also discussed that maintaining institutions like the MAEF is redundant and results in unnecessary financial expenditure from the public coffers.

Considering the aforementioned factors, the members has decided to cease support for the MAE due to its failure to fulfill its responsibilities



effectively.

Over the extensive period since its establishment in 1989, the MAEF has achieved only the following:

a. It disbursed scholarships of Rs. 884.87 crore to minority girls, provided Rs. 221.0 crore in Grant-in-Aid for infrastructure projects, and allocated Rs. 282.30 crore for skill development initiatives under the Garib Nawaz Employment Scheme. Despite the long timeframe, these efforts have resulted in scholarships for only 12.89 lakh girl students, support to 1636 NGOs through Grant-In-Aid, and skill training for only 64,597 trainees under the Gharib Nawaz Employment Programme. These figures highlight the limited scope of MAEF's impact over the years. Furthermore, an examination of MAEF's scheme records reveals from the fiscal years 2017-18 to 2021-22, only 11% of scholarships under the Begum Hazrat Mahal Scholarship Scheme were awarded to a five out of six minority communities leading to non equitable distribution amongst the minority communities. A similar pattern is evident from the other schemes implemented by MAEF. It is posited that the initiatives undertaken by the Ministry encompass a more inclusive approach compared to the programs and schemes facilitated by the MAEF.

b. In contrast, the Ministry has streamlined its efforts to serve minority communities by consolidating a vast array of programs, which has resulted in significant cost savings, eliminated redundant efforts, and reduced the overall expense of public service delivery. In light of these efficiencies, persisting with an analogous service delivery model via the MAEF, which does not offer additional value, contradicts the Ministry's policy objectives aimed at efficient service delivery. Dissolving the MAEF will further enhance cost-effectiveness, prevent overlapping of services, and decrease the financial burden of public service provision. Adopting this more streamlined approach promises greater benefits. The Ministry of Minority Affairs, dedicated to policy formulation, planning, coordination, evaluation, and regulatory oversight, will directly assume responsibility for ensuring the educational advancement of minority communities, reinforcing the Central Government's commitment to their welfare.

Resolution:

Considering the outlined reasons the Members of General Body unanimously resolved to dissolve the Society as per the bye laws of the Society and as per the provisions of Societies Registration Act, 1860. This policy determination is anchored in a comprehensive and



unequivocal commitment not merely to safeguard but to significantly enhance the socio-economic interests of the minority communities, in accordance with principles of equity and justice.

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15. Thus, it is seen that the decision to dissolve the MAEF is a well considered decision, duly taken by the General Body of the MAEF in terms of the authority vested in it by way of the Bye Laws of the MAEF and as per the provisions of the Act, 1860. This Court is not impressed by the various submissions advanced on behalf of the petitioners with respect to dissolution of MAEF not being in conformity with the Act, 1860 or with regard to transfer of its funds. The decision to dissolve the MAEF has been duly taken by the General Body of the MAEF and this Court finds no impropriety or irregularity in the process adopted by the said General Body in arriving at the said decision.

16. In any event this Court in public interest jurisdiction (unlike civil original jurisdiction) is not supposed to examine and give a finding with respect to each and every procedural or statutory violation. In public interest jurisdiction, the Court has to look at the “big picture” and ensure that the cause of the minorities, in particular the minority girl students, as canvassed by the Petitioners, is not prejudiced. Consequently, this Court takes notice of the various welfare schemes being carried out by the respondent no.1-Ministry to cater to the specific interests of the educational and vocational needs of the minority communities, including girls belonging to the said communities. Therefore, the contention of the petitioners that the schemes of the respondent no.1-Ministry do not have objects similar to that of the MAEF, cannot be accepted.

17. Even otherwise, the scope of judicial review of the policy decisions



taken by the Government is very limited. Once a policy has been formulated by the Government and a decision has been taken thereto, it is not for this Court to interfere in the said policy, only on the ground that a better policy could have been evolved. Thus, Supreme Court in the case of *Reliance Telecom Limited and Another Vs. Union of India and Another*, (2017) 4 SCC 269, has held as follows:-

“xxx xxx xxx

46. In Census Commr. v. R. Krishnamurthy, (2015) 2 SCC 796 : (2015) 1 SCC (L&S) 589], a three-Judge Bench of this Court, after noting several decisions, held that (SCC p. 809, para 33) it is not within the domain of the courts to embark upon an enquiry as to whether a particular public policy is wise and acceptable or whether a better policy could be evolved and the courts can only interfere if the policy framed is absolutely capricious or not informed by reasons or totally arbitrary and founded on ipse dixit offending the basic requirement of Article 14 of the Constitution. It further observed that in certain matters, as often said, there can be opinions but the court is not expected to sit as an appellate authority on an opinion.

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(Emphasis Supplied)

18. It is no longer *res-integra* that Courts do not act as Appellate Authorities to examine the correctness or appropriateness of a policy as formulated by the Government. Thus, in the case of *Directorate of Film Festivals and Others Vs. Gaurav Ashwin Jain and Others*, (2007) 4 SCC 737, Supreme Court has held as follows:-

“xxx xxx xxx

16. The scope of judicial review of governmental policy is now well defined. Courts do not and cannot act as Appellate Authorities examining the correctness, suitability and appropriateness of a policy, nor are courts advisors to the executive on matters of policy which the executive is entitled to formulate. The scope of judicial review when examining a policy of the Government is to check whether it violates the fundamental rights of the citizens or is opposed to the provisions of the



Constitution, or opposed to any statutory provision or manifestly arbitrary. Courts cannot interfere with policy either on the ground that it is erroneous or on the ground that a better, fairer or wiser alternative is available. Legality of the policy, and not the wisdom or soundness of the policy, is the subject of judicial review (vide *Asif Hameed v. State of J&K* [1989 Supp (2) SCC 364], *Sitaram Sugar Co. Ltd. v. Union of India* [(1990) 3 SCC 223], *Khoday Distilleries Ltd. v. State of Karnataka* [(1996) 10 SCC 304], *BALCO Employees' Union v. Union of India* [(2002) 2 SCC 333], *State of Orissa v. Gopinath Dash* [(2005) 13 SCC 495 : 2006 SCC (L&S) 1225] and *Akhil Bharat Goseva Sangh (3) v. State of A.P.* [(2006) 4 SCC 162])

xxx xxx xxx”

(Emphasis Supplied)

19. Likewise, in the case of ***Parisons Agrotech Private Limited and Another Vs. Union of India and Others***, (2015) 9 SCC 657, Supreme Court has held as follows:

14. No doubt, the writ court has adequate power of judicial review in respect of such decisions. However, once it is found that there is sufficient material for taking a particular policy decision, bringing it within the four corners of Article 14 of the Constitution, power of judicial review would not extend to determine the correctness of such a policy decision or to indulge into the exercise of finding out whether there could be more appropriate or better alternatives. Once we find that parameters of Article 14 are satisfied; there was due application of mind in arriving at the decision which is backed by cogent material; the decision is not arbitrary or irrational and; it is taken in public interest, the Court has to respect such a decision of the executive as the policy making is the domain of the executive and the decision in question has passed the test of the judicial review.

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16. The power of the Court under writ jurisdiction has been discussed in *Asif Hameed v. State of J&K* [1989 Supp (2) SCC 364 : 1 SCEC 358] in paras 17 and 19, which read as under: (SCC pp. 373-74)

“17. Before adverting to the controversy directly involved in these appeals we may have a fresh look on the inter se functioning of the three organs of democracy under our Constitution. Although the doctrine of separation of powers has not been recognised under the Constitution in its absolute



rigidity but the Constitution makers have meticulously defined the functions of various organs of the State. Legislature, executive and judiciary have to function within their own spheres demarcated under the Constitution. No organ can usurp the functions assigned to another. The Constitution trusts to the judgment of these organs to function and exercise their discretion by strictly following the procedure prescribed therein. The functioning of democracy depends upon the strength and independence of each of its organs. Legislature and executive, the two facets of people's will, they have all the powers including that of finance. Judiciary has no power over sword or the purse nonetheless it has power to ensure that the aforesaid two main organs of State function within the constitutional limits. It is the sentinel of democracy. Judicial review is a powerful weapon to restrain unconstitutional exercise of power by the legislature and executive. The expanding horizon of judicial review has taken in its fold the concept of social and economic justice. While exercise of powers by the legislature and executive is subject to judicial restraint, the only check on our own exercise of power is the self-imposed discipline of judicial restraint.

19. When a State action is challenged, the function of the court is to examine the action in accordance with law and to determine whether the legislature or the executive has acted within the powers and functions assigned under the Constitution and if not, the court must strike down the action. While doing so the court must remain within its self-imposed limits. The court sits in judgment on the action of a coordinate branch of the Government. While exercising power of judicial review of administrative action, the court is not an appellate authority. The Constitution does not permit the court to direct or advise the executive in matters of policy or to sermonise qua any matter which under the Constitution lies within the sphere of legislature or executive, provided these authorities do not transgress their constitutional limits or statutory powers."

xxx xxx xxx"

(Emphasis Supplied)

20. Holding that judiciary must exercise restraint qua administrative decisions of the Executive, Supreme Court in the case of *State of Haryana Vs. Ashok Khemka and Another, 2024 SCC OnLine SC 258*, has held as



follows:

“xxx xxx xxx

25. Now, turning to the issue framed in Paragraph 22 of this Judgment above, we find ourselves grappling with a foundational principle of our constitution i.e., that the judiciary must exercise restraint and avoid unnecessary intervention qua administrative decision(s) of the executive involving specialised expertise in the absence of any mala-fide and/or prejudice. In this regard it would be appropriate to refer to our decision in *Caretel Infotech Ltd. v. Hindustan Petroleum Corpn. Ltd.*, (2019) 14 SCC 81 whereunder this Court observed as under:

“38...It has been cautioned that Constitutional Courts are expected to exercise restraint in interfering with the administrative decision and ought not to substitute their view for that of the administrative authority. Mere disagreement with the decision-making process would not suffice.”

xxx xxx xxx”

(Emphasis Supplied)

21. In view of the aforesaid detailed discussion, this Court finds no merit in the present petition and is not inclined to interfere in the considered decision taken by the respondents. Accordingly, the present petition is dismissed, along with the pending applications.

MINI PUSHKARNA, J

ACTING CHIEF JUSTICE

APRIL 16, 2024

c/au