2025:DHC:11802-DB

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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgment reserved on: 30.10.2025***
Judgment pronounced on: 24.12.2025

\+ LPA 1168/2024 & CM APPL. 69406/2024 (Stay)

AIRPORTS AUTHORITY OF INDIA ....Appellant

Through: Mr. Digvijay Rai, Standing Counsel for AAI with Mr. Archit Mishra and Abhishek Singh, Advocates with Mr. Sachin Yadav DGM Law, Mr. Sushant Singhal JE Law Officer and Mr. K.K. Soni, Jt. GM (ATM).

versus

SHRISTI INFRASTRUCTURE DEVELOPMENT CORPORATION LTD & ORS.

.....Respondents

Through: Mr. Arvind Naiyar, Senior Advocate with Mr. Vijay K. Singh, Mr. Kumar Shashwat Singh Sawno, Ms. Diksha Dadu, Mr. Shubham Pandey, Ms. Sanjukta Kashyap and Mr. Ankur Mishra, Advocates.
Mr. Rakesh Kumar, SPC with Mr. Sunil, Advocate for UOI.

\+ LPA 63/2025

SHRISTI INFRASTRUCTURE DEVELOPMENT CORPORATION LTD .....Appellant

Through: Mr. Arvind Naiyar, Senior Advocate with Mr. Vijay K. Singh, Mr. Kumar Shashwat Singh Sawno, Ms. Diksha Dadu, Mr. Shubham Pandey, Ms. Sanjukta Kashyap and Mr. Ankur Mishra, Advocates.

versus

AIRPORTS AUTHORITY OF INDIA & ORS. ....Respondents

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Mr. Rakesh Kumar, SPC with Mr. Sunil, Advocate for UOI.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. These **Letters Patent Appeals**[1], filed under Clause 10 of the Letters Patent, arise from and challenge the **Judgment dated 15.10.2024**[2] passed by the learned Single Judge of this Court in Writ Petition (Civil) No. 11422/2019 titled *'Shristi Infrastructure Development Corporation Ltd. vs. Airports Authority of India & Ors.'*.

2. The said Writ Petition had been instituted by *Shristi Infrastructure Development Corporation Ltd.* for issuance of appropriate writ for quashing the **Communication/Order *vide* reference no. CHQ File: AAI/20012/21/2011-ARI (NOC); Case No. ER/241/2010; NOCAS ID: KOLK/EAST/B/111912/017 dated**

[1] LPAs
[2] Impugned Judgement

08.03.2019[3], whereby the Airport Authority of India rejected the request of the Petitioner for the Higher Top Elevation of Tower-II.

3. For the sake of brevity, clarity, and uniformity, the Appellant in **LPA 1168/2024**, Airports Authority of India, shall hereinafter be referred to as **"*AAI*"**, and the Appellant in **LPA 63/2025**, Shristi Infrastructure Development Corporation Ltd. & Ors., shall hereinafter be referred to as **"*Shristi Infrastructure/Petitioner*"**.

4. ***LPA 1168/2024*** has been preferred by AAI, challenging the Impugned Judgement, whereby the learned Single Judge set aside the communication dated 08.03.2019 passed by the AAI.

5. ***LPA 63/2025*** has been filed by Shristi Infrastructure challenging the findings of the learned Single Judge in the Impugned Judgment, particularly those contained in paragraphs 8.2, 9 and 10, and seeking their setting aside.

BRIEF FACTS:

6. Shorn of unnecessary details, the facts germane to the institution of the present LPAs are as follows:

I. Shristi Infrastructure undertook the development of a two-tower complex comprising Tower-I and Tower-II at Mouza Jatragachi, AA-II/CBD/2, Action Area-II, New Town, Rajarhat, District North 24 Parganas, West Bengal, located approximately 7.06 kilometres from the Netaji Subhas Chandra Bose International Airport, Kolkata. Owing to its proximity to the aerodrome, Shristi Infrastructure was required to obtain a **No**

[3] Impugned communication dated 08.03.2019

Objection Certificate[4] under Section 9A of the Aircraft Act, 1934 and Rules made thereunder.

II. Pursuant to an application dated 13.02.2006, AAI issued the first NOC on 26.07.2006 under the then-applicable 1988 Notification, permitting construction of both Tower-I and Tower-II up to a height of 144.53 metres AMSL. That NOC was valid for three years, i.e., until 26.07.2009. The construction of Tower-II was not completed within the validity period, and on 27.08.2010, Shristi Infrastructure sought revalidation of the earlier NOC dated 26.07.2006.

III. During the revalidation process, and in view of the then-applicable 2010 Notification (superseding the 1988 framework), AAI informed Shristi Infrastructure on 13.12.2010 that the maximum permissible height for Tower-II was 88.64 metres AMSL, subject to submission of revised plans. After representations were made, AAI issued a second NOC on 13.06.2014 approving Tower-I up to 144.53 metres **AMSL**[5] and Tower-II up to 90.30 metres AMSL, extendable to 105.48 metres AMSL upon commissioning of a proposed **Air Surveillance Radar**[6].

IV. On 03.07.2014, AAI issued the final NOC reiterating the prescribed height restrictions, valid for a period of five years. Shristi Infrastructure preferred an appeal before the competent authority; however, the same did not yield any relief.

[4] NOC
[5] Above Mean Sea Level
[6] ASR

V. Shristi Infrastructure challenged the reduced height in W.P.(C) 7652/2015, assailing the Final NOC dated 03.07.2014, the Appellate Committee order dated 24.06.2015, and AAI's communication dated 29.07.2015 directing compliance with the revised permissible height. By order dated 25.04.2016, the writ petition was dismissed. Shristi Infrastructure preferred LPA No. 503/2016, challenging the order dated 25.04.2016, which was withdrawn on 24.09.2019 on the ground that subsequent developments necessitated a fresh challenge. While permitting the withdrawal, the Court expressly clarified that it had not expressed any opinion on the merits of the appeal or on the pleas raised by Shristi Infrastructure. The Court further observed that, in the event the Shristi Infrastructure pursues fresh legal remedies, all parties would be at liberty to raise all available pleas, both on facts and in law.

VI. In the interregnum, on 30.09.2015, the Ministry of Civil Aviation notified the **Height Restrictions for Safeguarding Aircraft Operations Rules, 2015**[7]**,** introducing, *inter alia*, criteria distinguishing "large" and "small" objects based on whether structures, individually or collectively, subtend an azimuth angle of 0.4 degrees or more at the radar antenna.

VII. During the pendency of LPA 503/2016, the parties were engaged in constant communications at various levels. Shristi Infrastructure requested reconsideration of its case under the 2015 Notification. AAI agreed to re-examine the matter and, as part of such re-examination, conducted a joint site inspection on

[7] 2015 notification

01.11.2018. Coordinates were recorded in the presence of representatives of both sides. AAI thereafter carried out angle and bearing analysis using the **No Objection Certificate Application System**[8] and other **Communication, Navigation and Surveillance**[9] parameters.

VIII. On 08.03.2019, AAI issued a communication stating that Tower-II did not qualify for greater height because, along with Tower-I, it constituted a large structure within the meaning of the 2015 Notification. Consequently, Tower-II was restricted to the earlier approved top elevation of 105.48 metres AMSL.

IX. Aggrieved thereby, Shristi Infrastructure filed the Writ Petition challenging the communication dated 08.03.2019 and seeking, *inter alia*, restoration of the higher permissible height and protection from coercive measures regarding the constructed portion of Tower-II.

X. AAI justified the impugned communication dated 08.03.2019 by placing reliance on the joint site survey, NOCAS-based computations, and statutory criteria under the 2015 Notification. Shristi Infrastructure, in turn, relied on file notings recording the use of "crude method", on a private report issued by *Sakthi* Aviation, and on its contention that Kolkata is a multi-radar airport.

XI. By the Impugned Judgment dated 15.10.2024, the learned Single Judge upheld AAI's technical findings, rejected Shristi Infrastructure's contentions regarding multi-radar applicability

[8] NOCAS
[9] CNS

and the *Sakthi* Aviation report, but set aside the communication dated 08.03.2019 solely on the ground that it was unreasoned, cryptic, and violative of the principles of Natural Justice. However, liberty was granted to AAI to take fresh action in accordance with the law.

XII. Aggrieved by the setting aside of the communication dated 08.03.2019, AAI has preferred LPA 1168/2024 seeking restoration of the impugned communication. Shristi Infrastructure, being dissatisfied with certain findings in paragraphs 8.2, 9, and 10 of the Impugned Judgment dated 15.10.2024, upholding AAI's technical conclusions, has preferred LPA 63/2025 challenging those observations, before us.

AIRPORTS AUTHORITY OF INDIA'S CONTENTIONS:

7. Learned counsel for the AAI would submit that each height determination was lawfully made under the applicable notifications, *namely*, S.O. 988 (1988), S.O. 84(E) (2010) and G.S.R. 751(E) (2015), and that the communication dated 08.03.2019 correctly applied the 2015 Notification, which the learned Single Judge failed to recognise. It would further be contended that the finding of a violation of natural justice is untenable, since administrative orders need not contain elaborate reasoning where contemporaneous records reflect due application of mind, reliance being placed on ***Maharashtra State Board v. K.S. Gandhi***[10] and ***M.J. Sivani v. State of Karnataka***[11].

[10] (1991) 2 SCC 716
[11] (1995) 6 SCC 289

8. Learned counsel for AAI would further contend that, pursuant to the Petitioner's repeated representations, AAI had already, *vide* email dated 10.10.2018, clearly informed Shristi Infrastructure that Towers I and II, when viewed as a single cluster, subtended an azimuth angle exceeding 0.4 degrees on the ASR/MSSR systems and therefore constituted a large structure, rendering the requested height of 133.321 metres AMSL impermissible. It would further be submitted that the impugned communication dated 08.03.2019 merely reiterated this unchallenged technical conclusion and the learned Single Judge failed to consider this contemporaneous and valid reasoning while setting aside the order.

9. Learned counsel for AAI would submit that the expression "crude analysis" referred merely to illustrative hand-drawn diagrams and not to the underlying numerical calculations, which were generated through the NOCAS system using precise bearing and coordinate data. It would be urged that both towers together subtend an azimuth angle exceeding 0.4 degrees and therefore constitute a large object under the 2010 and 2015 Notification, rendering the Petitioner ineligible for any additional height.

10. The learned counsel for AAI would rely on paragraphs 11, 18 and 19 of the Judgement dated 25.04.2016 passed in in earlier Writ Petititon, i.e., W.P.(C) 7652/2015, to contend that the learned Single Judge had already held, on a detailed examination of the statutory framework and technical material, that height determinations under the applicable notifications fall squarely within the domain of AAI and the Appellate Committee; that variations in permissible height across different years were a result of evolving aeronautical

parameters and not arbitrariness; that the Petitioner had proceeded with unauthorised construction beyond the lapsed NOC and was therefore disentitled to equitable relief; and that no right accrued to seek third-party studies or repeated reconsideration.

11. Learned counsel for AAI would contend that the allegation of suppression or non-disclosure of the site-visit report is wholly unfounded, as pursuant to the directions of this Court dated 02.07.2019 passed in CM No. 22134/2019 in LPA No. 503/2016, the said report was duly transmitted by AAI to the office of its counsel on 18.07.2019, but the same could not be immediately furnished to the Petitioner owing to an inadvertent clerical lapse in the counsel's office, which fact was expressly clarified in the communication dated 29.08.2019, and thereafter the report was handed over to the Petitioner, thereby demonstrating that there was no deliberate withholding of material by AAI, and consequently the learned Single Judge erred in treating the issue as one of procedural unfairness attributable to AAI.

12. Learned counsel for AAI would further submit that the record, when read as a whole, positively rebuts any suggestion that the Petitioner's requests relating to the installation of additional radar or equipment at Kolkata Airport were ignored or rejected without due consideration, and in this regard reliance is placed upon the U.O. Note dated 09.12.2020, which was issued in response to the Petitioner's communications dated 30.09.2020 and 17.11.2020, and which sets out detailed, cogent, and contemporaneous reasons for declining the Petitioner's request for modification of the height clearance as well as its proposal to participate in financing the installation of additional

radar equipment at Kolkata Airport to restore the originally sanctioned height, while also explaining the technical, operational, and policy constraints that rendered the Petitioner's proposals untenable and evidencing due application of mind by the competent authority.

13. Learned counsel would therefore contend that these communications, taken cumulatively, dispel any inference of procedural *mala fides* or concealment, and they instead establish that AAI acted transparently, lawfully, and strictly within the bounds of its statutory competence.

14. Learned counsel appearing for AAI would, however, support the findings of the learned Single Judge as recorded in paragraphs 8.2, 9, and 10 of the Impugned Judgment.

PETITIONER/SHRISTI INFRASTRUCTURE'S CONTENTIONS:

15. Learned senior counsel appearing for Shristi Infrastructure supported the Impugned Judgment to the extent that it set aside the communication dated 08.03.2019; however, in support of the appeal preferred by Shristi Infrastructure insofar as it challenges the findings recorded in paragraphs 8.2, 9, and 10 of the Impugned Judgment, the learned senior counsel advanced various submissions.

16. Learned senior counsel would contend that the learned Single Judge failed to appreciate that the gap-angle assessment forming the foundation of the communication dated 08.03.2019 was not undertaken through NOCAS or any scientific computational process, but manually, using what AAI's own internal noting described as a "*crude method without any mathematical solution or computer-simulated modelling*". It would thus be urged that such methodology

is contrary to the 2015 Notification and cannot constitute a lawful basis for designating the towers as a cluster or a large object.

17. Learned senior counsel for Shristi Infrastructure would contend that the site-visit report dated 01.11.2018 and the internal notings forming the basis of the technical determination were disclosed by AAI only pursuant to directions issued by this Court in LPA 503/2016 and subsequently through an RTI response dated 02.09.2019. The disclosed notings, particularly that of the Joint General Manager, unequivocally recorded that the conclusion that the two towers formed a cluster subtending more than 0.4 degrees was reached by employing a "crude method" without any mathematical basis or computer-simulated modelling.

18. Learned senior counsel would further submit that the learned Single Judge failed to consider the technical conclusions contained in the *Sakthi* Aviation report dated 10.12.2018, an independent expert analysis, which recorded that Tower-I and Tower-II do not form a cluster under the 2015 Notification and the physical gap between the towers exceeds 0.4 degrees. It would be urged that AAI's omission to address or rebut this expert material renders the communication dated 08.03.2019 arbitrary.

19. Learned senior counsel for Shristi Infrastructure would further contend that the First NOC dated 26.07.2006 expressly sanctioned a height of 144.53 metres AMSL for both towers under the then prevailing 1988 Notification, thereby conferring a substantive entitlement which ought not to have been curtailed without lawful justification. Reliance would be placed on the judgment of the

Bombay High Court in ***Paradigm Dotom Buildheights LLP v. AAI***[12], wherein it was held that once an applicant has substantially complied with procedural requirements and a height has been duly approved, minor lapses cannot defeat such entitlement. Learned senior counsel would submit that, applying the said principle, Shristi Infrastructure remains entitled to the originally sanctioned height and that AAI's subsequent reduction, unsupported by any procedurally fair or scientifically robust reasoning, is arbitrary and unsustainable.

ANALYSIS:

20. We have heard the learned counsel appearing for the respective parties and, with their able assistance, have carefully perused the Impugned Judgment, the written submissions filed by the parties, and all other relevant material placed on record for our consideration.

21. At the outset, we deem it apposite to reproduce herein the relevant portions of the Impugned Judgement:

> "**8.** Sh. Jayant Mehta, the learned Senior Counsel for the petitioner strongly and primarily argued that the case of the petitioner for height restriction imposed vide the impugned order dated 08.03.2019 was examined on basis of "crude method" and without resorting to any mathematical solution or computer simulated modelling and file noting in Site Inspection Report of the respondent no.1/AAI also reflected use of "crude method without any mathematical solution or computer simulated modelling" to arrive at a conclusion that the two towers formed a cluster subtending an angle of more than 0.4 degrees and as such forming a large object. Sh. Mehta after referring Site Visit Report argued that Report itself notes that the Tower-II if assessed in isolation is classified as a 'small structure' and is not "Large object" as defined in Clause 2.5.1.1 of the 2015 Notification as the angle formed by the Tower-II when seen from the ASR/MSSR radar is 0.25 Degree and the angle formed by the Tower-II when seen from MSSR (ARSR) is 0.19 degree which is less than 0.4 Degree. Sh. Mehta

[12] 2025 SCC OnLine Bom 315

further highlighted that the respondent no.1/AAI has wrongly assessed the permissible height without considering the tilt angle.

8.1 Sh. Rai, the learned counsel for the respondent no.1/AAI countered arguments advanced by Sh. Mehta on behalf of the petitioner and argued that S.O. 84(E) and GSR 751 (E) contained a stipulation regarding "Large object" i.e. the structure/s in isolation or collectively subtending azimuth angle of 0.4 degree or above at Radar antenna and entire cluster should be considered as one object in case of cluster of buildings wherein the gap between the two adjacent buildings subtends an azimuth angle of less than 0.4 degree on the antenna pedestal and Tilt Angle is not the criteria for height restriction from Airport Surveillance Radar and the height of 105.48 meters ASML in respect of Tower-II is final. Sh. Rai further strongly argued that once the site co-ordinates are entered in the NOCAS application system, the "Bearing" information is automatically provided in the NOCAS Height Sheet. The Kolkata Airport is not considered for multi radar criteria. Sh. Rai strongly argued that the calculation method used to arrive at structure angle individually or the gap angle between the two buildings was purely scientific and accurate and the crude method mentioned in the file noting refers only to the pictorial depiction which was drawn just for explanation purpose and not drawn to the scale. Sh. Rai also stated that office rof the respondent no.1/AAI in conclusion of note mentioned that **"Cluster of both towers subtends angle of more than 0.4 degrees and hence become Large Structure."**

8.2 The perusal of Site Inspection Report reflects that a team duly constituted by the competent authority visited site on 01.11.2018 to verify and record coordinates of the structures. In respect of the Tower-II, it was concluded that angle is less than 0.4 degree, hence Tower-II is a small structure in isolation. The Tower-I and Tower-II were treated as cluster as gap was found to be less than 0.4 degree on gap analysis between Tower-I and Tower-II. The angle analysis for Tower-II based on NOCAS sheet was also done. It was noticed that since the angle was less than 0.4, Tower-II was a structure in isolation. It was concluded at end on basis of calculation that the Tower-II along with Tower-I forms a large structure when seen from ASR/MSSR Kolkata and accordingly, higher height as claimed by the petitioner was not granted and permissible top elevation remained at 104.57 meters ASML for Tower-II. It is reflecting that angle analysis in respect of Tower-I and Tower-II was done based on NOCAS Sheet which is a scientific method. There is no force in argument advanced by Sh. Jayant Mehta, the learned Senior Counsel for the petitioner that height restriction vide impugned order dated 08.03.2019 was examined on basis of "crude method" and without resorting to any mathematical solution or computer simulated modelling. Even if

file noting in Site Inspection Report contained reflected use of "crude method without any mathematical solution or computer simulated modelling", it does not provide much help to the petitioner. More over this Court cannot sit as an appellate court over the decision is taken by an expert body due to lack of technical expertise as rightly argued by the counsel for the respondent no.1.

9. Sh. Mehta also referred Report dated 10.12.2018 prepared by Sakhti Aviation wherein highlighted that there was no measurement technique or application available to measure the gap between towers from space with respect to radar and found that the gap between Tower-I and Tower-II is more than 0.4 degree and concluded that Tower-I and Tower-II did not form a cluster as per Clause 2.5.2.2 sub clause IV of the 2015 Notification. Sh. Rai argued that Sakhti Aviation Report is incorrect as M/s. Sakhti selected the site co-ordinates for calculating gap angle as per its own convenience and report of Sakhti Aviation is not binding on the respondent no.1/AAI as per the existing rules. There is force in arguments advanced by Sh. Rai as Report given by M/s Sakhti Aviation is without any legal sanctity.

10. Sh. Mehta after referring Site Visit Report also stated that there was more than one radar at Kolkata airport at the time of assessing the height of Tower-I and Tower-II on 01.11.2018 and the case of the petitioner must be assessed by criterion of multi-radar and due to this reason, the case of the petitioner be assessed on the basis of the 2015 Notification. Sh. Rai stated that Kolkata only has one single ASR Radar and as such multi radar criteria as per GSR 751 (E) is not applicable as another radar is MSSR which is an Air Route Surveillance Radar (ARSR) and cannot be considered for multi radar criteria. There is no material on record to show that Kolkata Airport is having more than one radar. The argument so advanced by Sh. Mehta is misconceived and misplaced.

11. Sh. Mehta also attacked the impugned order dated 08.03.2019 by arguing that the respondent no.1/AAI being a public authority was bound to record valid and cogent reasons explaining the decision arrived at vide impugned order dated 08.03.2019 but the respondent no.1/AAI has failed to provide any reason while passing the impugned order dated 08.03.2019. The impugned order dated 08.03.2019 reads as under:-

> **Sir,**
>
> **Please refer your Building project case located at Plot No.AAII/CBD/2 ,New Town, Kolkata, West Bengal.**

On examination, it was concluded that the Tower-II does not qualify for higher height, as along with Tower-I, it becomes a large structure.

Therefore, Tower-II is restricted to the earlier Top Elevation granted by AAI.

11.1 The principles of natural justice involve a procedural requirement of fairness and have become an essential part of any system of administrative justice. Natural Justice is considered to be part of rule of law. The Supreme Court in **Sangram Singh V Election Tribunal Kotah**, AIR 1955 SC 425 observed that one should not be condemned unheard and decision should not be reached behind the back. The Supreme Court in **Maneka Gandhi V Union of India**, AIR 1978 SC 597 emphasized that natural justice is an essential element of procedure established by law and state action must be right, just and fair and not arbitrary, fanciful and oppressive. It was held that Article 14 of the Constitution strikes at arbitrariness of state action and ensures fairness and equality of treatment.

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11.4 The principles of natural justice are equally applied in purely administrative functions. The Supreme Court in **A.K. Kraipak V Union of India**, AIR 1970 SC 150 observed that the principles of natural justice are applicable to administrative inquiries and established that observance of principles of natural justice in decision making process of the administrative body having civil consequences.

11.5 The purpose of the principles of natural justice is to prevent miscarriage of justice. The expression *audi alteram partem* implies that a person must be given an opportunity to defend himself and ensures that no one should be condemned unheard. The administrative authority is also required to afford reasonable opportunity to the party to present his case. A real, rationale and effective hearing includes disclosure of all relevant material or information which the authority wishes to use against the individual in arriving of its decision. The administrative authority cannot take a decision on the basis of any material unless the person against whom it is sought to be utilized is given an opportunity to rebut or explain the same.

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12. The perusal of impugned order dated 08.03.2019 passed by the respondent no.1/AAI reflects that it was issued without properly appreciating the material and without assigning any reason and is in violation of the Principles of Natural Justice. The respondent no.1/AAI being a statutory authority in discharge of its duties was

> legally bound to record valid and cogent reasons explaining the decision arrived at in the impugned order dated 08.03.2009 but it was passed without giving reasons for its decision. The decision by the statutory authority must be non-arbitrary and be supported by sufficient reason. The impugned order dated 08.03.2019 is cryptic, mechanical and is passed without application of mind. The impugned order dated 08.03.2019 is passed without giving reasons and is accordingly set aside. However, the respondent no.1 shall be at liberty to initiate appropriate action in accordance with law.
>
> **13.** The present petition is accordingly allowed. The pending application, if any, also stands disposed of."

22. In the impugned judgment, the learned Single Judge addressed the controversy by adopting two concurrent and independent lines of reasoning, which may be summarised as follows:

(a) The technical determinations made by the concerned government authorities, particularly the findings that Kolkata Airport is equipped with only one radar system in accordance with the prevailing statutory rules and regulations, and that the subject structures of Shristi Infrastructure were liable to be classified as a cluster or large object, were held to fall squarely within AAI's domain of technical expertise and to be duly supported by the site-visit report, coordinate data, and NOCAS output sheets; these findings constitute the subject matter of challenge in the appeal preferred by Shristi Infrastructure.

(b) The communication dated 08.03.2019 was found to be cryptic and unreasoned, and was, therefore, held to fall short of the minimum requirements of procedural fairness and reasoned decision-making; this finding is under challenge in the appeal preferred by AAI.

23. At the outset, it is necessary to reiterate that the appellate jurisdiction of this Court is limited in scope and does not permit a re-

assessment of technical conclusions reached by specialised statutory bodies. Long-standing judicial authority recognises that matters requiring scientific expertise, mathematical modelling, or aeronautical evaluation fall predominantly within the province of designated expert agencies, whose determinations warrant judicial deference. The Court's function in such cases is supervisory rather than substitutive.

24. The Courts are concerned only with ensuring that the authority has acted within the bounds of its statutory mandate, adhered to the principles of natural justice, and avoided arbitrariness, perversity, *mala fides*, or irrationality. Judicial review does not entail a re-hearing on technical merits but is confined to scrutiny of the legality, fairness, and reasonableness of the process. Deference to expert opinion is therefore an incident of institutional competence, though it does not insulate administrative action from challenge where the decision is unreasoned or procedurally defective. The law in this regard has been succinctly laid down by the Hon'ble Supreme Court in the case of ***Federation of Railway Officers Associations & Ors. v. Union of India.***[13] The relevant portion of the said judgment is reproduced hereinbelow for reference:

> "**12.** In examining a question of this nature where a policy is evolved by the Government judicial review thereof is limited. When policy according to which or the purpose for which discretion is to be exercised is clearly expressed in the statute, it cannot be said to be an unrestricted discretion. On matters affecting policy and requiring technical expertise the court would leave the matter for decision of those who are qualified to address the issues. Unless the policy or action is inconsistent with the Constitution and the laws or arbitrary or irrational or abuse of power, the court will not interfere with such matters."

[13] (2003) 4 SCC 289

25. A similar view has been reiterated in the case of ***Jal Mahal Resorts Private Limited v. K.P. Sharma & Ors.***[14]**.** The relevant paragraphs of the said judgment are reproduced hereinbelow for reference:

> "**137.** From this, it is clear that although the courts are expected very often to enter into the technical and administrative aspects of the matter, it has its own limitations and in consonance with the theory and principle of separation of powers, reliance at least to some extent to the decisions of the State authorities, specially if it is based on the opinion of the experts reflected from the project report prepared by the technocrats, accepted by the entire hierarchy of the State administration, acknowledged, accepted and approved by one Government after the other, will have to be given due credence and weightage. In spite of this if the court chooses to overrule the correctness of such administrative decision and merits of the view of the entire body including the administrative, technical and financial experts by taking note of hair splitting submissions at the instance of a PIL petitioner without any evidence in support thereof, the PIL petitioners shall have to be put to strict proof and cannot be allowed to function as an extraordinary and extra-judicial ombudsmen questioning the entire exercise undertaken by an extensive body which include administrators, technocrats and financial experts. In our considered view, this might lead to a friction if not collision among the three organs of the State and would affect the principle of governance ingrained in the theory of separation of powers. In fact, this Court in M.P. Oil Extraction v. State of M.P.4S, SCC at p. 611 has unequivocally observed that: (SCC para 41)
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> "41. The power of judicial review of the executive and legislative action must be kept within the bounds of constitutional scheme so that there may not be any occasion to entertain misgivings about the role of judiciary in outstepping its limit by unwarranted judicial activism being very often talked of in these days. The democratic set -up to which the polity is so deeply committed cannot function properly unless each of the three organs appreciate the need for mutual respect and supremacy in their respective fields."
>
> **139.** ……In that view of the matter when a particular policy decision was taken to develop a particular project supported by extensive research and study by the experts in the field who prepared the project report relying upon the three successive master plans of the city of Jaipur and the global tender was floated

[14] 2014 (8) SCC 804

> for development of land for tourism adjoining the lake area, entertaining PIL petition on the ground that the area in question is a wetland without substantiating the same in any manner……"

26. The present matters pertain to the safety of aircraft operations and the application of CNS criteria under the 2015 Notification. The assessment of such issues necessarily involves specialist inputs, including evaluation of site coordinates, radar characteristics, pedestal heights, minimum sector altitudes, and the interpretation of azimuth and gap angles. These determinants fall squarely within the statutory domain of the designated technical authority. This analytical context itself cautions against the Court undertaking a point-by-point technical re-calculation. Judicial intervention is, therefore, limited to circumstances where the procedure adopted is legally infirm, the conclusion is vitiated by perversity or arbitrariness, or the decision suffers from the absence of reasons.

27. With respect to technical competence and factual assessment, the learned Single Judge correctly observed that the site inspection of 01.11.2018 was carried out by a duly constituted expert team, that the relevant co-ordinates were recorded in the presence of the Petitioner's representative, and that NOCAS outputs together with the composite CNS calculations were placed on record.

28. The material demonstrates that the statutory authorities applied the prescribed criteria under the 2015 Notification, including the classification of structures as "large" or "small" based on azimuthal subtension and the rule governing cluster formation where the gap angle falls below 0.4 degrees. Having regard to the specialised expertise of AAI and the prior consideration of the CNS parameters by the Appellate Committee, the learned Single Judge rightly

refrained from substituting judicial computation for expert evaluation. To this extent, the Single Judge's deference accords with the settled principles governing judicial restraint in matters involving technical and scientific determinations.

29. The Petitioner's attempt, by placing reliance on the report of *Sakthi* Aviation, to invite this Court to undertake a full-scale technical re-appraisal is misconceived. A court of law cannot be converted into a technical appellate tribunal to reassess or substitute its own conclusions for those arrived at by the competent authority. The report of *Sakthi* Aviation, though produced as material, does not carry any statutory imprimatur; it is, at best, a private expert opinion which the authority may consider, but is under no legal obligation to accept or adopt. There exists no rule, regulation, or statutory mandate requiring the authority to act in accordance with such a report.

30. Any such report is not *per se* binding on the statutory authority; and that, where the statutory decision-makers have themselves undertaken an evaluation using their systems and methods, the Court's role is to ensure procedural regularity rather than to prefer a private expert's differing methodology. This approach accords with the prudential line that private expert opinions can be relevant but cannot displace the considered view of the competent statutory body unless that view is demonstrably irrational or tainted.

31. The Petitioner's reliance on the RTI-produced file noting in which a Joint GM used the phrase "*crude method without any mathematical solution or computer simulated modelling*" required careful consideration. The Single Judge addressed that aspect appropriately, whereby two propositions flow from the Impugned

Judgement. *Firstly*, internal notings by themselves are not formal decisions and must be read in the light of the complete file; *secondly*, the presence of an internal expression of dissatisfaction with an explanatory pictorial does not, without more, nullify a contemporaneous technical exercise that produced NOCAS outputs and bearing calculations.

32. The Petitioner alleges that the noting acknowledging the use of a "*crude method without any mathematical solution or computer-simulated modelling*" surfaced only through the RTI disclosure dated 02.09.2019 and did not appear in the version of the report initially furnished pursuant to this Court's order. This discrepancy, if any, invites closer scrutiny of AAI's disclosure. At the same time, the learned Single Judge correctly observed that the mere presence of a "*crude method*" notation in an internal file does not, by itself, advance the Petitioner's case in a manner that would justify the Court substituting its own technical assessment for that of the expert body. The learned Single Judge rightly reaffirmed that the Court, lacking technical expertise, cannot sit as an appellate authority over aeronautical determinations that fall within the statutory domain of AAI.

33. The learned Single Judge, therefore, accorded due evidentiary value to the internal file noting, yet correctly declined to treat it as determinative or fatal to the technical exercise undertaken by AAI. This balanced and restrained approach warrants affirmation.

34. While internal notings may, in appropriate cases, assume probative significance, particularly where they disclose procedural impropriety, suppression of material facts, arbitrariness, or *mala fides*,

they cannot, by their very nature, displace or invalidate a technical decision merely because they form part of the internal deliberative process. Administrative decision-making, especially in specialised and safety-critical domains, necessarily involves internal consultations and exchanges, and such notings cannot be elevated to a status higher than the final, reasoned determination arrived at by the competent authority.

35. Furthermore, this Court consciously refrains from venturing into the highly technical question as to whether Kolkata Airport is equipped with one radar system or two, or from examining their respective technical specifications, operational capabilities, or functional roles in airport management. These matters lie squarely within the exclusive province of expert statutory authorities, who possess the requisite technical knowledge, institutional competence, and statutory mandate to assess them. Given that such issues directly implicate aviation safety, air-traffic management, and the security of the entire airport ecosystem, as well as the safety of the travelling public at large, judicial substitution of expert opinion would be not only inappropriate but also potentially detrimental to public interest. Courts exercising writ jurisdiction must, therefore, exhibit institutional restraint and defer to expert determinations unless vitiated by manifest arbitrariness, *mala fides*, or patent illegality, none of which is demonstrated in the present case. We accordingly concur with and affirm the findings of the learned Single Judge on these aspects.

36. Turning to the rejection communicated through the U.O. Note dated 09.12.2020 issued by the competent authority in respect of Shristi Infrastructure's proposal, whereby Shristi Infrastructure sought

permission for the installation of an additional radar system at Kolkata Airport, including by offering to bear or contribute towards the financial cost of such installation, we are of the considered view that the said decision reflects a reasoned, informed, and technically sound evaluation of the proposal. A perusal of the U.O. Note dated 09.12.2020 reveals that the authorities examined the request in detail and declined the same on clearly articulated technical and operational grounds, which are germane to the issue at hand and cannot be characterised as extraneous, arbitrary, or irrational. The relevant portion of the note reads as follows:

> "**8.** In Nov 2020, M/s SIDCL proposed to participate in the cost of installation of the second Airport Surveillance Radar (ASR) at Kolkata Airport to get the requested height of 133.21 M for Tower-2 as per multi radar criteria.
>
> **9.** The request of M/s. SIDCL for installation of 2nd ASR by AAI was examined. To avail Multi Radar Criteria benefit, the second proposed radar is to be installed at a considerable distance from the existing radar, i.e. outside the airport. Moreover 2nd ASR, if installed outside the airport may not meet the Air Traffic Management operational requirements.
>
> **10.** In view of the above, the direction of the Appellate Committee needs to be complied with."

37. The above reasoning leaves little scope for judicial interference. The rejection of the proposal is founded on considerations of operational feasibility, air-traffic management requirements, and aviation safety, which are quintessentially technical matters. It is well settled position that courts, while exercising judicial review, cannot compel expert authorities to adopt a particular technical course of action, especially where such action may compromise safety norms or undermine established regulatory frameworks. To do so would amount to substituting judicial perception for expert judgment, which

is impermissible in law and contrary to the doctrine of separation of powers.

38. We also find considerable force in the submission of the learned counsel for the AAI that the Petitioner cannot claim vested rights based on permissions granted in a markedly different regulatory context. The initial permission granted in 2006 was subject to the rules and regulations then prevailing; however, owing to its own inaction, the Petitioner failed to act upon the said sanction within the permissible timeframe. Thereafter, in 2010 and again in 2015, the regulatory regime underwent material changes driven by enhanced aviation safety and security considerations.

39. Despite being fully cognizant of the regulatory changes and in the absence of any valid or subsisting permission authorising construction beyond the prescribed limits, the Petitioner nevertheless proceeded to raise construction in excess of the permissible height, thereby consciously and deliberately assuming the attendant risks and consequences. Having elected to act in the face of a changed statutory and regulatory regime, the Petitioner cannot now seek to shift the burden of its own calculated decision onto the authorities. In such circumstances, the authorities cannot be compelled, whether directly or indirectly, to revive, resurrect, or extend benefits flowing from an obsolete regulatory framework, particularly when any such course would be fundamentally inconsistent with, and indeed inimical to, the safety-oriented policies and norms currently governing the field. The plea advanced by the Petitioner, viewed in this backdrop, is not only bereft of legal foundation but is also wholly lacking in equity and merit.

40. We now proceed to examine the second issue, *namely*, whether the requirement of reasoned decision-making was violated in the present case. The learned Single Judge concluded that the communication dated 08.03.2019 was cryptic, mechanical, and issued without due application of mind. For ease of reference, the contents of the communication dated 08.03.2019 are reproduced below:

> "On examination, it was concluded that the Tower-II does not qualify for higher height, as along with Tower-I, it becomes. a large structure.
>
> Therefore, Tower-lI is restricted to the earlier Top Elevation granted by AAI."

41. At the outset, it is necessary to underscore that the aforesaid communication did not constitute an independent or *de novo* decision taken by the authorities. Rather, it was the final culmination of a structured and reasoned process of re-examination, which the authorities themselves undertook pursuant to the 2015 Notification, upon granting liberty to the Petitioner for reconsideration of its request.

42. The record unequivocally demonstrates that the authorities were in sustained engagement with the Petitioner throughout the decision-making process. No specific allegation of *mala fides*, arbitrariness, or extraneous consideration was ever levelled by the Petitioner against any of the concerned authorities. In order to ensure fairness, transparency, and technical accuracy, during the pendency of the earlier LPA, the AAI consciously agreed to re-examine the matter and, as part of such re-examination, conducted a joint site inspection on 01.11.2018. The coordinates were recorded in the presence of authorised representatives of both parties, and at no point did the

Petitioner object either to the procedure adopted or to the methodology employed during such inspection.

43. The said joint site inspection culminated in an expert report dated 01.11.2018, which examined the Petitioner's proposal in light of all relevant technical parameters and the applicable 2015 Notification. It is this expert report that formed the substantive foundation of the decision-making process. The impugned communication dated 08.03.2019 merely conveyed the final conclusion flowing from the consistent assessment, including the technical assessment done on 01.11.2018.

44. In our considered view, therefore, the communication dated 08.03.2019 cannot be read in isolation or divorced from the detailed examination which preceded it. When a decision is the outcome of a multi-stage evaluative process, the requirement of reasons is satisfied if such reasons are discernible from the record as a whole, even if the final communication itself is brief.

45. Significantly, it is not the case of the Petitioner that the authorities failed to apply their mind during the process of re-examination. Nor is it contended that the impugned communication dated 08.03.2019 amounted to a sudden, arbitrary, or unilateral rejection without any prior consideration. The initial grievance of the Petitioner was confined solely to the form of the impugned communication, and not to the substance of the technical evaluation that preceded it. This position stands further reinforced by the fact that, in Writ Petition (Civil) No. 11422/2019 before the learned Single Judge, the Petitioner did not seek any relief with respect to the expert

report and consciously chose to assail only the communication dated 08.03.2019.

46. This deliberate omission assumes considerable significance, inasmuch as the expert report constituted the very foundation of the impugned decision. Despite being fully aware that the expert committee had undertaken a comprehensive examination of all technical aspects of the Petitioner's structure in light of the 2015 Notification, the Petitioner elected not to seek any relief or challenge in respect thereof.

47. The communication dated 08.03.2019 must, therefore, be understood as a formal intimation of the final decision already taken on the strength of expert evaluation, and not as an independent exercise of reasoning or fresh formulation of opinion.

48. It is well-settled that the doctrine of reasoned decision-making does not mandate prolixity or elaborate narration in every communication, particularly where the decision is founded upon expert technical material already on record. What is required is that the decision should not be arbitrary and that the reasons should be traceable from the record. Both these requirements are fully satisfied in the present case.

49. In view of the foregoing discussion, we are unable to concur with the conclusion of the learned Single Judge that the communication dated 08.03.2019 suffered from inadequate disclosure or lack of reasons. The finding that the said communication was cryptic, mechanical, and issued without application of mind is, therefore, unsustainable and is set aside. At the same time, we affirm the conclusion of the learned Single Judge insofar as he declined to

interfere with the technical conclusions arrived at by the competent authorities, which were based on expert assessment and do not warrant judicial substitution.

CONCLUSION:

50. In view of the foregoing discussion and the conclusions recorded hereinabove, we find that LPA No. 1168/2024 preferred by the AAI merits acceptance. Accordingly, the said Appeal is allowed, and the finding of the learned Single Judge holding the impugned communication dated 08.02.2019 to be cryptic, mechanical, and vitiated by non-application of mind, is set aside.

51. However, insofar as the remaining findings and conclusions recorded in the Impugned Judgment are concerned, which constitute the subject matter of challenge in LPA No. 63/2025 filed by Shristi Infrastructure, we find no infirmity, illegality, or perversity therein. The said findings, having been rightly returned and being based on a proper appreciation of the record and applicable legal principles, are accordingly affirmed.

52. Resultantly, ***LPA No. 1168/2024*** stands allowed in the above terms, while ***LPA No. 63/2025*** is dismissed.

53. The present Appeals, along with pending application(s), if any, are disposed of in the above terms.

54. No order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

DECEMBER 24, 2025/sm/kr/dj