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* IN THE HIGH COURT OF DELHI AT NEW DELHI

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

\+ **W.P.(C) 14738/2025, CM APPL. 60479/2025, CM APPL. 60480/2025, CM APPL. 77491/2025 & CM APPL. 18128/2026**

Between:-

VEDANTA LIMITED
(DIVISION: CAIRN OIL & GAS)
1st FLOOR, WING "C", UNIT NO. 103
CORPORATE AVENUE, ATUL PROJECTS,
CHAKALA ANDHERI (EAST),
MUMBAI – 400093
ALSO HAVING ITS CORPORATE OFFICE AT:
ASF CENTRE, 362-363, PHASE IV,
UDYOG VIHAR, SECTOR 18,
GURUGRAM, HARYANA 122016

.....PETITIONER

(Through: Mr. Jayant K Mehta, Sr. Adv. with Ms. Anuradha Dutt, Mr. Anish Kapur, Ms. Nikhita K Suri, Ms. Suman Yadav, Mr. Gurudas Khurana & Mr. Raghav Dutt, Advs.)

Versus

1. **UNION OF INDIA**
   THROUGH THE SECRETARY
   MINISTRY OF PETROLEUM & NATURAL GAS
   SHASTRI BHAWAN, NEW DELHI

2. **DIRECTORATE GENERAL OF HYDROCARBONS**
   THROUGH THE DIRECTOR GENERAL
   OIDB Bhawan
   Plot No. 2, Sector 73,

Noida – 201301

3. **INVENIRE PETRODYNE LTD.**
(FORMERLY TATA PETRODYNE LTD.)
Unit No. 611, Reliables Pride,
Anand Nagar, Opp. Heera Panna Mall,
Jogeshwari (W), Mumbai 400102, Maharashtra

4. **OIL AND NATURAL GAS CORPORATION LTD.**
Deendayal Urja Bhawan,
5-Nelson Mandela Marg,
Vasant Kunj, New Delhi – 110070

.....RESPONDENTS

(*Mr. R Venkatramani, AGI with Mr. Nakul Sachdeva, Mr. Shreyansh Rathi, Mr. Sagar Arora, Ms. Shrinkhla Tiwari, Mr. Abhinandan Sharma, Mr. Kartikay Aggarwal, Ms. Yamika Khanna & Mr. Karan Sharma, Advocates for R1 & R2;*
Mr. Ashish K Dixit, CGSC with Mr. Umar Hashmi & Ms Iqra Shiekh, Advs. for UOI;
Mr. Ajoy Roy with Ms. Avlokita Rajvi, Mr. Lakshya Khanna & Mr. Bakhshind Singh, Advocates for R3; and
Mr. Chetan Sharma, ASG with Mr. Abhishek Gupta, Mr. Kumar Kartikeya, Mr. Amit Gupta, Mr. R V Prabhat, Mr. Shubham Sharma, Mr. Yash Wardhan Sharma, Mr. Naman, Mr Dhananjay Singh & Mr. Chanakya Kene, Advocates for R4/ONGC)

% Reserved on: 18.05.2026
Pronounced on: 22.07.2026

J U D G M E N T

I N D E X

The present petition has been filed by the petitioner seeking to quash the rejection letter/order dated 19.09.2025 ("**Impugned Order**") issued by respondent no. 1 i.e., Ministry of Petroleum and Natural Gas ("**MoPNG**"), whereby the petitioner's application dated 28.06.2021 seeking the extension of its Production Sharing Contract dated 20.06.1998 ("**PSC**") was rejected. The petitioner further seeks the setting aside of the direction dated 19.09.2025 issued by MoPNG to respondent no. 4 i.e., Oil and Natural Gas Corporation Ltd. ("**ONGC**") to, *inter alia*, immediately take over the assets and operations of the petitioner over the PSC contract area.

I. FACTUAL MATRIX

2. While the facts material to the adjudication of the instant *lis* are detailed and numerous, at this stage, for the purposes of introducing the dispute, a brief narration shall suffice.

3. In the decade of 1990s due to increasing dependency on the import of petroleum and lack of financial and technical wherewithal to conduct petroleum exploration operations, the Government of India opened the oil and gas sector to private investment, including by seeking participation from multinational companies in the exploration and production of oil and gas under production sharing arrangements. To facilitate this, various Production Sharing Contracts were awarded by the Government of India, for

the exploration of various areas, termed as '*Blocks*', to private/joint venture companies, through the means of International Competitive Bidding.[1]

4. Under the aforesaid process, one of the blocks located offshore in Suvali, Gujarat, named as CB/OS-2 Block ("**Block**") was awarded by the Government of India to Cairn Energy (India) Pvt. Ltd. (predecessor in interest of the petitioner), Tata Petrodyne Ltd. (predecessor in interest of respondent no. 3) and ONGC. The said block was a 'Greenfield Project' meaning thereby that it did not have any discovered petroleum reservoir when it was put up for competitive bidding. In furtherance of the award of the Block the PSC was executed between the said parties.

5. The following recitals of the PSC may be taken note of:

> "*(5) The Government desires that the Petroleum resources which may exist in the Contract Area be exploited with the utmost expedition in the overall interest of India in accordance with good international petroleum industry practices;*
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> *(7) The Companies have represented that they have the necessary financial and technical resources and the technical and industrial competence and experience necessary for proper discharge and/or performance of all obligations required to be performed under this Contract in accordance with good international petroleum industry practices and each Company will provide a guarantee as required in Article 29 for the due performance of its undertakings hereunder;*
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> *(8) As a result of discussions between representatives of the Government, ONGC and the Companies, the Government and ONGC have agreed to enter into this Contract with the Companies with respect to the said area referred to in paragraph (3) above on the terms and conditions herein set forth.*"

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[1] *See* ***Reliance Natural Resources Ltd. v. Reliance Industries Ltd.***, (2010) 7 SCC 1, para. 216-232 concurring opinion of B.S. Reddy J., for a scholarly account of the evolution of the arrangements between sovereign nations and oil companies.

6. The original term of the PSC was for a period of 25 years from the effective date i.e., 30.06.1998 till 29.06.2023 and was extendable for a further period of 5 years. Article 2.1 of the PSC, however, provided that in case of commercial production of Non-Associated Natural Gas,[2] the Government of India, may extend the PSC by up to 10 years but not exceeding 35 years from the effective date.

7. The Participating Interest[3] of the parties in the Block at the time of entering into the PSC was — ONGC (10%), predecessor-in-interest of the petitioner (45%) and predecessor-in-interest of the respondent no. 3 (45%). As on date the Participating Interest is — petitioner (40%), respondent no. 3 (10%) and ONGC (50%) (the three parties collectively became the JV Partners/Contractor Parties). To operationalize the PSC, a Joint Operating Agreement was entered into between the JV Partners. Under Article 4.2 of the said agreement, the petitioner became the designated operator ("**Operator**") performing functions on behalf of the Contractor Parties at the Block and under the PSC.

8. The scheme of the PSC, in rudimentary terms, involves the following process. Subject to the specific stipulations in the PSC, post production of petroleum, the Contractor Parties become entitled to take in the portion of the total petroleum produced and saved for the recovery of the costs incurred

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[2] In the instant case, commercial production of Non-Associated Natural Gas did take place.

[3] Article 1.68 of the PSC defines "Participating Interest" in the following terms:
"***1.65*** *"Participating Interest" means in respect of each Party constituting the Contractor, the undivided share expressed as a percentage, of such Party in the rights and obligations under the Contract (including, without limitation, the Party's rights and obligations in relation to a Development Area) and the Operating Agreement.*"

by it during operations (this is termed as "**Cost Petroleum**"). What remains after the reduction of the Cost Petroleum is termed as Profit Petroleum, which is divided between the Government and the Contractor Parties, and, thereafter, *inter se* between the JV Partners, in proportion to their respective Participating Interest.

9. In the year 2000, two significant discoveries were made within the Block *viz.* Gauri Gas Field ("**Gauri Field**") and Lakshmi Gas Field ("**Lakshmi Field**").[4] Following the discovery, on 28.08.2002 a Petroleum Mining Lease was granted to ONGC for the Lakshmi Field for the period from 01.07.2002 to 01.07.2022. Similarly, on 11.06.2023, Union of India granted a Petroleum Mining Lease for the Gauri Field in the name of ONGC for a period of 16 years. It was made effective retrospectively with effect from 01.04.2004 till 01.04.2020.

10. In July, 2020 the MoPNG extended ONGC's Petroleum Mining Lease over the Gauri Field till the expiry of the PSC i.e., 29.06.2023. The said extension was granted after the expiry of the initial lease term concerning the Guari Field. The Petroleum Mining Lease for the Lakshmi Field was also extended till the expiry of the PSC on 11.02.2022 by the MoPNG. The said leases were thereafter subjected to further extensions which shall be detailed at the relevant portions within the judgement.

11. During the life of the PSC, on 07.04.2017 the Union of India through the MoPNG notified the 'Policy for the Grant of Extension to the Production Sharing Contracts signed by Government of India awarding Pre-New

Exploration Licensing Policy (Pre-NELP) Exploration Blocks' ("**Extension Policy**"). The said Extension Policy applied specifically to 10 Blocks, including the Block concerning the PSC of the petitioner. The said policy required an applicant to submit its application for extension to the MoPNG at least 2 years in advance of the expiry date of contract, but not more than 6 years in advance.

12. On 28.06.2021, the Contractor Parties made an application to the MoPNG ("**Extension Application**") under the Extension Policy seeking extension of the PSC for a further period of 10 years w.e.f. 30.06.2023 till 29.06.2033. While the said application remained pending, the PSC, by efflux of time, expired. Thereafter, 5 interim extensions/working permits ("**Interim Extensions**") were granted to the petitioner, and two Petroleum Mining Lease extensions were granted, allowing the Contractor Parties to continue petroleum operations in the Block. The last Interim Extension expired on 29.09.2024.

13. The Impugned Order on 19.09.2025 then came to be passed, which was assailed before this Court on 22.09.2025 by filing the instant petition. The matter was, thereafter, heard by the predecessor bench on the question of interim relief on 25.09.2025, 26.09.2025, 10.10.2025, 04.12.2025, 08.12.2025, 18.12.2025, 19.12.2025 and finally on 22.12.2025, when judgement was reserved. Thereafter, till the passing of the judgement on interim relief dated 06.01.2026, the petitioner continued operating at the Block, and the Government of India, presumably owing to the pendency of

[4] The Block presently has two petroleum fields *viz* Lakshmi and Gauri (collectively "**Fields**").

the present proceedings, allowed the affairs to continue as is. *Vide* the said judgement and order dated 06.01.2026, while rejecting the contention of the respondents seeking an *in limine* dismissal of the petition, this Court had issued notice and granted an interim relief of *status quo* in favour of the petitioner.

14. Thereafter, an application bearing CM Appl. 18128/2026 came to be filed by the respondent no. 2 i.e., Directorate General of Hydrocarbons ("**DGH**"), seeking vacation of the interim stay, on which notice was issued *vide* order dated 23.03.2026 and the matter was posted for 21.04.2026. It was clarified in the said order that on the further date of hearing "*the Court shall consider deciding the main matter*." Thereafter, the hearing on the main matter was conducted on 24.04.2026, 27.04.2026, 28.04.2026, 29.04.2026, 30.04.2026, 05.05.2026, 07.05.2026, 12.05.2026, and finally on 18.05.2026, when the Court reserved the matter for judgement.

15. It may be clarified that during the course of the initial hearing before this Court, a *prima facie* view was formed that the petitioner ought to be called upon to specifically explain the manner in which territorial jurisdiction is established in the instant *lis* given that the Block which is the fulcrum of the entire dispute lies off the shore of Gujarat. However, since the Attorney General for India Mr. Venkatramani has requested for a final adjudication on the dispute, and also because pleadings have been completed, and an interim judgement dated 06.01.2026 was also passed, relegating the parties to a different State at this stage may not be appropriate. The issue of territorial jurisdiction is, therefore, not gone into, though the petitioner was ready to satisfy the Court on this issue, and had the stance that

this Court is clothed with the requisite jurisdiction to deal with the controversy.

16. After considering the submissions of the parties, perusing their written submissions, compilation of judgements, and the entire material on record, this Court has arrived at the conclusion that the Impugned Order does not deserve to be interdicted. The petitioner is found to be ineligible for an extension of the PSC, in terms of the Extension Policy owing to its act of unilaterally deducting from the Government's share of Profit Petroleum under the PSC, the amount of Special Additional Excise Duty which the petitioner was liable to pay to the Central Excise Department. The decision of the MoPNG rejecting the petitioner's Application for extension of the PSC, is found to be legally permissible, and within the contours of the Extension Policy. Before delving into the details of the reasoning, the submissions of the parties, may be taken note of.

II. SUBMISSIONS MADE ON BEHALF OF THE PETITIONER

17. Mr. Jayant K. Mehta, learned senior counsel, appearing on behalf of the petitioner submitted that despite the petitioner not having an indefeasible right to an extension as its claim was premised on the MoPNG's failure to adhere to its own Extension Policy, which has the force of statute. It is his case that the Impugned Order has been passed *de hors* the Extension Policy, on irrelevant considerations and without due application of mind. It is his contention that once the State had decided the path-way to grant extensions concerning specific blocks, it was bound to tread that road and any deviation therefrom would be violative of Article 14 and be arbitrary. The argument

sought to be advanced by Mr. Mehta was that the Extension Policy admittedly has the force of statute, it is, therefore law; any deviation from the law would *per se* be illegal.

18. It was further submitted by Mr. Mehta that the timelines prescribed under Clause 1 of the Extension Policy were mandatory. The petitioner's application was required to be tested as per the facts which prevailed as on the date of the making of the Application, and the petitioner fully complied and satisfied all conditions on the date on which it tendered its Application seeking an extension of the PSC. For the last leg of these submissions, Mr. Mehta painstakingly took this Court through the record to submit that the Impugned Order is not sustainable. It was strenuously argued by him that the argument of the learned Attorney General that the Impugned Order is not susceptible to judicial review lies in the teeth of settled constitutional principles.

19. In order to uphold the object and purpose for which the Extension Policy was brought in force, it was contended by Mr. Mehta, that the grounds on which an application seeking an extension can be rejected, ought to be transparently defined. Neither under Clause 9 nor under any other clause, the Government could have untrammeled discretion, where on its own *ipsi dixit* it can whimsically decide the fate of billions of dollars of infrastructure. It was also his case, that the Union had acted as the judge, jury and executioner, and violated principles of natural justice, which is, as per settled law, sufficient prejudice to maintain a writ petition. Lastly, Mr. Mehta also contended that the MoPNG has not filed any pleadings in the present petition, and the Impugned Order cannot be justified by DGH which

is neither the issuer of the Impugned Order nor an authority over and above MoPNG.

II. SUBMISSIONS MADE ON BEHALF OF THE RESPONDENTS

20. Mr. R. Venkatramani, learned Attorney General for India appearing on behalf of the MoPNG and the DGH, submitted that the Union has throughout acted in public interest and in furtherance of its obligations under the Public Trust Doctrine. It is his case that the present writ petition is not maintainable as the petitioner has no right to seek an extension. Mr. Venkatramani contends that the scope of judicial interference, it is purportedly settled, pertains only to three defined stages of a contact *viz.* formation, performance and termination and the instant case falls under none of them.

21. Though seemingly at odds with his earlier submission, it is also his case that the Impugned Order can only be tested on grounds of "*fairness*". Further, Mr. Venkatramani submitted that the Government of India has acted fairly and had informed the petitioner of its defaults which culminated into the passing of the Impugned Order. It is submitted by him that it is incumbent upon an applicant to remain eligible while submitting its application and thereafter till final consideration. A personal hearing, he stressed, is not contemplated under the Extension Policy. To retain the original submission, a few extracts of the Written Submissions filed by DGH and settled by the learned Attorney General may also be taken note of:

> "***25.*** *...this Hon'ble Court must therefore not insist on the Respondents demonstrating its degrees of satisfaction in considering the Application made by the Petitioner. The Hon'ble Court should avoid committing an*

error of jurisdiction by asking questions which do not arise for consideration…".

Quite surprisingly, it has further been argued that:

> "***26.*** *…that even an order directing reconsideration of extension would set an untenable precedent, enabling every unsuccessful or rejected contractor to seek renewal on grounds of alleged "fairness", thereby opening the floodgates of litigation.*"

22. Lastly, the learned Attorney General has also provided a note to the Court explaining the rationale behind the passing of the Impugned Order. In doing so, Mr. Venkatramani clarifies:

> "***32.*** *…the Respondent is not submitting itself to the proposition that the Hon'ble Court will enter into any justificatory evaluation of the responses.*"

IV. ANALYSIS

A. THE RIGHT WHICH THE PETITIONER SEEKS TO AGITATE AND THE SCOPE OF ADJUDICATION

23. It is not in doubt that there is no indefeasible or vested right of extension that a party can agitate and insist upon for vindication before a Court. A petition praying for such a relief is *per se* not maintainable.[5]

24. For instance, in ***Sisters of Our Lady Fatima v. State of Maharashtra and Ors.***,[6] the petitioner upon being granted a license for the use of a plot of land by the MIDC, sought its extension/renewal. While dismissing the petition, a Division Bench of the Bombay High Court observed as under:

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[5] See for instance ***Monnet Ispat & Energy Ltd. v. Union of India***, (2012) 11 SCC 1, para. 215; ***State of Tamil Nadu v. Hind Stone***, (1981) 2 SCC 205, para. 13; ***Union of India and Anr. v. Vedanta Ltd. and Ors.***, 2021:DHC:1129-DB, paras. 61 and 65; ***Sonalika Bhargava v. Govt. of NCT of Delhi and Ors.***, 2020:DHC:2659, para. 43-44.

[6] 2025 SCC OnLine Bom 399. Also see ***Sugati Beach Resort Pvt. Ltd. v. Union of India***, 2017 SCC OnLine Bom 9418.

> "***9.*** *At the outset, we are in agreement with the learned senior counsel for the respondents that the petitioner has miserably failed to point out any vested right and/or any other legal right which could be said to be breached in maintaining the present proceedings under Article 226 of the Constitution of India. The petitioner enjoyed rights qua the open land merely as a licensee i.e., to use the plot of land in question although adjoining to its school and which was in addition to the open space which the petitioner school already possesses. In any event such license had expired by efflux of time, as noted by us hereinabove.*"

25. In the aforesaid case, there did not, at all, exist a right of an extension. However, if such a right did exist in the contract between the parties, it becomes a contractual right susceptible to adjudication before a Court of law. While the principles applicable to adjudicating such a right and a purported breach thereof may differ, a petition praying for such an extension, does not *per se* become non-maintainable.

26. There is indeed no proposition, like the one sought to be advanced by Mr. Venkatramani that in matters concerning extension of a contract, judicial review simply cannot take place. The learned Attorney General's argument that principles of arbitrariness, fairness, and equity are applicable only to the formation, performance and termination stage of a contract, are contrary to the broad declarations in ***Shreelekha Vidyarthi v. State of U.P.***,[7] ***Food Corporation of India v. Kamdhenu Cattle Feed Industries***,[8] ***MP Power Management Company Ltd., Jabalpur v. Sky Power Southeast Solar India Pvt. Ltd. and Ors.***,[9] as also the specific adjudication undertaken by the Supreme Court in ***Bharti Airtel Limited v. Union of India***.[10]

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[7] (1991) 1 SCC 212, ("***Shreelekha Vidyarthi***")
[8] (1993) 1 SCC 71.
[9] (2023) 2 SCC 703, ("***Sky Power***").
[10] (2015) 12 SCC 1, ("***Bharti Airtel***").

27. In ***Shreelekha Vidyarthi*** while expanding the application of Article 14 of the Constitution to all actions of the State in the contractual and commercial domain, and so as to ensure that the hovering spirit of Article 14 continues to guide State action, in eloquent and resounding terms J.S. Verma J. held as under:

> "***23.*** ***Thus, in a case like the present, if it is shown that the impugned State action is arbitrary and, therefore, violative of Article 14 of the Constitution, there can be no impediment in striking down the impugned act irrespective of the question whether an additional right, contractual or statutory, if any, is also available to the aggrieved persons***.
>
> ***24.*** *The State cannot be attributed the split personality of Dr Jekyll and Mr Hyde in the contractual field so as to impress on it all the characteristics of the State at the threshold while making a contract requiring it to fulfil the obligation of Article 14 of the Constitution and thereafter permitting it to cast off its garb of State to adorn the new robe of a private body during the subsistence of the contract enabling it to act arbitrarily subject only to the contractual obligations and remedies flowing from it. It is really the nature of its personality as State which is significant and must characterize all its actions, in whatever field, and not the nature of function, contractual or otherwise, which is decisive of the nature of scrutiny permitted for examining the validity of its act. The requirement of Article 14 being the duty to act fairly, justly and reasonably, there is nothing which militates against the concept of requiring the State always to so act, even in contractual matters. There is a basic difference between the acts of the State which must invariably be in pubic interest and those of a private individual, engaged in similar activities, being primarily for personal gain, which may or may not promote public interest.* ***Viewed in this manner, in which we find no conceptual difficulty or anachronism, we find no reason why the requirement of Article 14 should not extend even in the sphere of contractual matters for regulating the conduct of the State activity***.
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> ***
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> ***29.*** *It can no longer be doubted at this point of time that Article 14 of the Constitution of India applies also to matters of governmental policy and if the policy or any action of the government, even in contractual matters, fails to satisfy the test of reasonableness, it would be unconstitutional. ...* ***The wide sweep of Article 14 and the requirement of every State action qualifying for its validity on this touchstone, irrespective of the field of activity of the State, has long been settled.*** *Later decisions of this Court*

have reinforced the foundation of this tenet and it would be sufficient to refer only to two recent decisions of this Court for this purpose."

[Emphasis supplied]

28. The Attorney General, while impressing upon this Court his contribution in the original proceedings in ***Shreelekha Vidyarthi***, has sought to curtail the applicability of the said case to its purportedly unique factual matrix. The concurring opinion of J.S. Khehar J. in ***Natural Resource Allocation, In Re: Special Reference No. 1 of 2012***,[11] however, explains the decision in ***Shreelekha Vidyarthi*** at odds with the argument of Mr. Venkatramani. In the said decision, the *ratio decidendi* of ***Shreelekha Vidyarthi*** was culled out in following words:

"***170.*** *The legal propositions laid down in the instant judgment in Shrilekha Vidyarthi case [(1991) 1 SCC 212 : 1991 SCC (L&S) 742] may be summarised as follows:*

170.1. *Firstly, State actions in the contractual field are meant for public good and in public interest and are expected to be fair and just.*

170.2. ***<u>Secondly, it would be alien to the constitutional scheme to accept the argument of exclusion of Article 14 of the Constitution of India in contractual matters</u>***.

170.3. *Thirdly, the fact that a dispute falls in the domain of contractual obligation, would make no difference to a challenge raised under Article 14 of the Constitution of India on the ground that the impugned act is arbitrary, unfair and unreasonable.*

170.4. *Fourthly, every State action must be informed of reason and it follows that an act uninformed by reason is arbitrary.*

170.5. *Fifthly, where no plausible reason or principle is indicated (or is discernible), and where the impugned action ex facie appears to be*

[11] (2012) 10 SCC 1, ("***Special Reference***").

arbitrary, the onus shifts on the State to justify its action as fair and reasonable.

170.6. *Sixthly, every holder of public office is accountable to the people in whom the sovereignty vests. All powers vested in a public office, even in the field of contract, are meant to be exercised for public good and for promoting public interest.*

170.7. *And seventhly, Article 14 of the Constitution of India applies also to matters of governmental policy even in contractual matters, and if the policy or any action of the Government fails to satisfy the test of reasonableness, the same would be unconstitutional.*"

[Emphasis supplied]

29. In ***Food Corporation of India v. Kamdhenu Cattle Feed Industries***,[12] while the factual matrix originated from the award of tender, the law declared by J.S. Verma J. for a 3 Judge Bench of the Supreme Court is of wider consequence. Para. 7 of the said decision is extracted as under:

"***7.*** *In contractual sphere as in all other State actions, the State and all its instrumentalities have to conform to Article 14 of the Constitution of which non-arbitrariness is a significant facet. There is no unfettered discretion in public law : A public authority possesses powers only to use them for public good. This imposes the duty to act fairly and to adopt a procedure which is 'fairplay in action'. Due observance of this obligation as a part of good administration raises a reasonable or legitimate expectation in every citizen to be treated fairly in his interaction with the State and its instrumentalities, with this element forming a necessary component of the decision-making process in all State actions. To satisfy this requirement of non-arbitrariness in a State action, it is, therefore, necessary to consider and give due weight to the reasonable or legitimate expectations of the persons likely to be affected by the decision or else that unfairness in the exercise of the power may amount to an abuse or excess of power apart from affecting the bona fides of the decision in a given case. The decision so made would be exposed to challenge on the ground of arbitrariness. Rule of law does not completely*

[12] (1993) 1 SCC 71. ***Followed*** in ***Reliance Natural Resources Ltd. v. Reliance Industries Ltd.***, (2010) 7 SCC 1, (3J), para. 27 per Sathasivam J. speaking for himself and Balakrishnan CJ.

eliminate discretion in the exercise of power, as it is unrealistic, but provides for control of its exercise by judicial review."

30. Recently in ***Sky Power***, while adjudicating upon the legality of an order terminating a power purchase agreement, entered into between the petitioner and the respondent no. 1 therein, the Supreme Court, after taking note of a catena of decisions, detailed, *inter alia*, the scope of judicial review that can be undertaken while testing actions of the State, in a matter arising from a contract, and what is the effect of a contract in question not being a statutory contract. The material portion of the judgement reads as under:

"***82.*** *We may cull out our conclusions in regard to the points, which we have framed:*

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82.2. *The principle laid down in Bareilly Development Authority [Bareilly Development Authority v. Ajai Pal Singh, (1989) 2 SCC 116] that in the case of a non-statutory contract the rights are governed only by the terms of the contract and the decisions, which are purported to be followed, including Radhakrishna Agarwal [Radhakrishna Agarwal v. State of Bihar, (1977) 3 SCC 457] , may not continue to hold good, in the light of what has been laid down in ABL [ABL International Ltd. v. Export Credit Guarantee Corpn. of India Ltd., (2004) 3 SCC 553] and as followed in the recent judgment in Sudhir Kumar Singh [State of U.P. v. Sudhir Kumar Singh, (2021) 19 SCC 706 : 2020 SCC OnLine SC 847] .*
82.3. *The mere fact that relief is sought under a contract which is not statutory, will not entitle the respondent State in a case by itself to ward off scrutiny of its action or inaction under the contract, if the complaining party is able to establish that the action/inaction is, per se, arbitrary.*

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82.5. *After the contract is entered into, there can be a variety of circumstances, which may provide a cause of action to a party to the contract with the State, to seek relief by filing a writ petition.*

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82.10. *The reach of Article 14 enables a writ court to deal with arbitrary State action even after a contract is entered into by the State. A wide variety of circumstances can generate causes of action for invoking Article 14. The Court's approach in dealing with the same, would be guided by, undoubtedly, the overwhelming need to obviate arbitrary State action, in cases where the writ remedy provides an effective and fair means of* *preventing miscarriage of justice arising from palpably unreasonable action by the State.*

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82.12. *In a case the State is a party to the contract and a breach of a contract is alleged against the State, a civil action in the appropriate forum is, undoubtedly, maintainable. But this is not the end of the matter. Having regard to the position of the State and its duty to act fairly and to eschew arbitrariness in all its actions, resort to the constitutional remedy on the cause of action, that the action is arbitrary, is permissible (see in this regard Shrilekha Vidyarthi v. State of U.P. [Shrilekha Vidyarthi v. State of U.P., (1991) 1 SCC 212 : 1991 SCC (L&S) 742]). However, it must be made clear that every case involving breach of contract by the State, cannot be dressed up and disguised as a case of arbitrary State action. While the concept of an arbitrary action or inaction cannot be cribbed or confined to any immutable mantra, and must be laid bare, with reference to the facts of each case, it cannot be a mere allegation of breach of contract that would suffice. What must be involved in the case must be action/inaction, which must be palpably unreasonable or absolutely irrational and bereft of any principle. An action, which is completely mala fide, can hardly be described as a fair action and may, depending on the facts, amount to arbitrary action. The question must be posed and answered by the Court and all we intend to lay down is that there is a discretion available to the Court to grant relief in appropriate cases.*"

31. In ***Bharti Airtel*** the extension clause, which was relied upon by the private companies/licensees was contained in the license granted under Section 4 of the Telegraph Act, 1885. After taking note of the status of the license being akin to that of a contract between the licensor and licensee,[13] it was held that even in such a case, the Union of India, did not have the freedom to act whimsically. The twin constitutional considerations declared in ***Centre for Public Interest Litigation v. Union of India***,[14] continued to apply, and the conduct of the State remained open to be tested, *inter alia*, on the anvil of Article 14 of the Constitution. The material portion of the decision in ***Bharti Airtel*** read as under:

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[13] ***Bharati Airtel***, para. 34.
[14] (2012) 3 SCC 1 ("***2G Case***"), para. 85.

"***39.*** *However, the licensor being the Union of India, its discretion to stipulate terms and conditions is regulated by certain constitutional mandates apart from stipulations of any law applicable.*

40. *Insofar as the constitutional mandates in the context of a licence under Section 4 of the Telegraph Act are concerned, this Court in 2G Case [Centre for Public Interest Litigation v. Union of India, (2012) 3 SCC 1] at para 85 held as follows: (SCC p. 56)*

> *"**85.** As natural resources are public goods, the doctrine of equality, which emerges from the concepts of justice and fairness, must guide the State in determining the actual mechanism for distribution of natural resources. In this regard, the doctrine of equality has two aspects: first, it regulates the rights and obligations of the State vis-à-vis its people and demands that the people be granted equitable access to natural resources and/or its products and that they are adequately compensated for the transfer of the resource to the private domain; and second, it regulates the rights and obligations of the State vis-à-vis private parties seeking to acquire/use the resource and demands that the procedure adopted for distribution is just, non-arbitrary and transparent and that it does not discriminate between similarly placed private parties."*
>
> *(emphasis in original)*

41. *The licensor/Union of India does not have the freedom to act whimsically. As pointed out by this Court in 2G Case [Centre for Public Interest Litigation v. Union of India, (2012) 3 SCC 1] in the above-extracted paragraph, the authority of the Union is fettered by two constitutional limitations: firstly, that any decision of the State to grant access to natural resources, which belong to the people, must ensure that the people are adequately compensated and, secondly, the process by which such access is granted must be just, non-arbitrary and transparent, vis-à-vis private parties seeking such access.*

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43. *In other words, such licences are in the nature of largesse from the State. No doubt, the authority of the State to distribute such largess is always subject to the condition that the State must comply with the conditions of Article 14 of the Constitution i.e. the distribution must be on the basis of some rational policy. Even the language of the proviso to Section 4 of the Telegraph Act, which stipulates that the grant of licence should be "on such conditions and in consideration of such payments as it thinks fit", must necessarily be understood that the conditions must be rational and the payments forming the consideration for the grant of licence must be non-discriminatory. The conditions contained in the licences in question stipulate that the term of the licence could be extended on mutually*

> *agreed terms, if the Government of India deems it expedient. The obligations of the Government of India flowing from the Constitution as well as a statute necessarily require the Government of India to grant licences as rightly pointed by the Tribunal (TDSAT) only "in public interest and for public good.*"

32. The decision in ***Bharti Airtel***, in furtherance of the pronouncements in ***Shreelekha Vidyarthi*** and ***Food Corporation of India***, applies Article 14 of the Constitution to the acts of the State in the contractual and commercial domain. Specifically, however, the said case deals with the acts of the Union of India concerning public largess and natural resources. The Supreme Court holds that the authority of the State over natural resources is perennially subject to compliance with Article 14. While the nature and implication of Article 14 in the instant context is adverted to in the later portion of this judgement, it may be, briefly, highlighted, as the text reproduced above notes, that a duty is owed by the State not merely to the owners of the natural resources namely the people of India but also to private parties who bid and compete for such a resource.

33. The present case having a bearing on the question, *inter alia*, of who, in what manner, and on what terms, shall the fruits of the petroleum and natural gas lying deep within the sea beds of the territorial waters of India, shall be distributed; naturally, the same must be scrutinised on the principles of Article 14 and non-arbitrariness. The acts of the State must be open to the purifying rays of the Constitution. An attempt at opaqueness or a reduced standard of scrutiny shall undo the consistent and concerted efforts of Courts to hold the executive accountable, and ensure that the Government of India continues to act as a trustee of public resources.

34. Further, in the present case the petitioner, herein, admits to it not having a vested right for extension. Its only grievance pertains to seeking a consideration of its Application in terms of the Extension Policy, notified by MoPNG. The said policy having statutory force,[15] the case of the petitioner, rests on seeking a decision from the State in terms of the applicable law *viz*. the Extension Policy. Every person in this country, be it juridical or personal, has a right to be treated in accordance with law. Treatment by the State which is *de hors* the prevailing and applicable legal regime, shall attract the vice of violating Articles 14 and be arbitrary.

35. In such a case, even if the petitioner does not have a vested right to a particular privilege or benefit, the act of the State framing a policy, which has the force of statute, to govern, *inter alia*, the grant, extension, or regulation of such a benefit or privilege, opens the jurisdiction of Courts to review its decisions thereunder. Such review primarily rests on ensuring the applicable rule of law i.e., the enacted policy of the State, prevails and is faithfully observed.

36. Importantly, the mere enactment of a rule or regulation does not, by itself, elevate what was otherwise a non-justiciable claim into an enforceable entitlement. Judicial review, in this context, is not premised upon the violation of a given claimant's indefeasible or vested right or entitlement to a given privilege/benefit. Rather, where the State chooses to bind itself, the Court tests the conduct of the State on the touchstone of that very statute,

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[15] ***Union of India and Anr. v. Vedanta Ltd. and Ors.***, LPA No. 346/2018, Order dt. 26.03.2021, para. 58.

and examines whether its action is in compliance therewith. The right of a given claimant is, thus, to be treated in accordance with the applicable law.

37. The argument of Mr. Venkatramani that the Impugned Order is not susceptible to judicial review would not be sustainable in view of the constitutional jurisprudence evolved by this country, over a period of seventy-five years, and zealously protected by the Constitutional Courts.

38. Similar to any other person, the petitioner has a right to be treated in accordance with the applicable law. In the present context the petitioner can legally insist upon the Union of India considering its application in terms of the Extension Policy, and allegations of non-compliance can be subject to judicial review. The impugned decision or rejecting the petitioner's application for seeking an extension of the PSC is, therefore, capable of being reviewed under Article 14 of the Constitution.

B. AN INTERPRETATION OF EXTENSION CLAUSES

39. In disputes involving the conduct of State in commercial and contractual matters, once the threshold of maintainability and entertainability are crossed, and merits of a case have been opened, the questions which usually arise, in post-award disputes, pertain to the adjudication of the purported violation of a term in the license, contract or any other instrument. In most of the cases, the same shall turn on the interpretation of a clause/provision in question.

40. In ***Himalayan Flora and Aromas v. MCD***,[16] the Court was moved to impugn an order of the Municipal Corporation of Delhi, whereby, the contract of the petitioner therein, for the display of advertisements through unipoles, for a further period of two years was rejected. The material clauses in the General Terms and Conditions of the Tender, that dealt with the issue of extension, were Clauses 7 and 15. They read as under:

> "***Clause 7. Period of Concession***
> *The contract period shall be for a period of 03 years and further extendable for another 02 years subject to satisfactory performance of the firm and as decided by the Commissioner, EDMC and 10% enhancement in awarded MLF from 4th year and also 10% increase on awarded MLF every year during the extended period, if extended by the Commissioner EDMC. After expiry of the contract period, either on account of completion of the concession period or pre-termination of the contract on any account whatsoever, the contractor shall hand over possession of the unipole(s) with complete structures, fittings and fixtures to the Commissioner, EDMC or any other person authorized by him. At the time of handing over of possession to the EDMC, it shall be ensured that the unipoles(s) is/are in proper condition and that no damage is caused by removing the fixtures and fittings, except the advertisement boards.*
>
> ***Clause 15. Extension of Contract***
> *The contract of each cluster will be awarded to the successful H-1 bidder, initially for 3 years only, extendable for 2 terms of one year each, subject to satisfactory performance of contract. However, the contractor may apply for the extension of contract, 3 months prior to completion of three year contract period. Any application made during the last 3 months of contract, will not be entertained by the department. The application for extension of contract does not entitles any right of extension of contract, the commissioner EDMC or any authorized officer by him shall be at liberty to grant or reject request for extension of contract.*"

41. The aforenoted clauses being part of the General Terms and Conditions of the tender were considered as forming the "*contractual*

[16] W.P.(C) 5350/2025, Order dt. 19.05.2025, "***Himalyan Flora (1J)***".

conditions" and governing the "*contractual relations between the parties*".[17] It was found that the only right available with the petitioner was to apply for the extension of their contract. A decision on such a request for extension lied in the domain of the MCD's discretion and mere satisfactory performance did not entitle an awardee of a contract to an extension. The reason tendered in the MCD's order rejecting the application for extension included, *inter alia*, that the contract originally had been entered into during the COVID period when advertising spaces were not in demand. Since then, there had been an improvement in the market condition warranting the MCD to award contracts after undertaking a price discovery. The said path was supported by narrating in the order that the MCD was undergoing financial strain.

42. The two principles which weighed with the Court therein were supremacy of a contract and the restrained approach of non-interference while adjudicating upon *simpliciter* contractual matters. An attempt to curtail the discretion vested with the MCD *qua* matters of extension, as being limited to examining the satisfactory performance of an applicant, was found tantamount to re-writing the terms of the contract.

43. Being a contract, the interpretation ought to, at the first instance, be as per the plain terms of the contract. It is for this reason that ***Himalyan Flora (1J)*** relies upon ***Rajasthan State Industrial Development and Investment***

[17] *Ibid.*, para. 9.

Corporation and Anr. v. Diamond and Gem Development Corporation Limited and Anr.,[18] the material portion of which reads as under:

> "*23. A party cannot claim anything more than what is covered by the terms of contract, for the reason that contract is a transaction between the two parties and has been entered into with open eyes and understanding the nature of contract. Thus, contract being a creature of an agreement between two or more parties, has to be interpreted giving literal meanings unless, there is some ambiguity therein. The contract is to be interpreted giving the actual meaning to the words contained in the contract and it is not permissible for the court to make a new contract, however reasonable, if the parties have not made it themselves. It is to be interpreted in such a way that its terms may not be varied. The contract has to be interpreted without any outside aid. The terms of the contract have to be construed strictly without altering the nature of the contract, as it may affect the interest of either of the parties adversely. [Vide United India Insurance Co. Ltd. v. Harchand Rai Chandan Lal [(2004) 8 SCC 644 : AIR 2004 SC 4794] and Polymat India (P) Ltd. v. National Insurance Co. Ltd. [(2005) 9 SCC 174 : AIR 2005 SC 286]*"

44. The decision of the Division Bench in ***Himalayan Flora and Aromas Pvt. Ltd. v. Municipal Corporation of Delhi***,[19] whereby, the decision of the learned Single Judge was affirmed, also, primarily, rests upon a plain interpretation of the contract itself. The material portion of the said judgement reads as under:

> "***17.*** *…Clause 7 of the earlier contract is very clear which enables the contractor to seek extension and also enables the MCD to extend the term, however, in our opinion, satisfactory performance of the contractor is not the only or sole basis for conferment of any right of extension in that contract.*
>
> ***18.*** *The appearance of the phrase "subject to satisfactory performance of the work and as decided by the Commissioner" assumes importance to arrive at the conclusion that it is not the satisfactory performance of the firm which is the sole basis for taking a decision as to whether the earlier term of the contractor was to be extended or not. Satisfactory performance*

[18] 2013 SCC OnLine SC 143.
[19] LPA No. 351/2025, Order dt. 26.05.2025.

of the firm is only one such consideration, however, the final decision is vested in the Commissioner on account of the appearance of the phrase "and as decided by the Commissioner".

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20. *Accordingly, we have no doubt in our mind that satisfactory performance of the appellant was not the only consideration to have weighed to the Commissioner while taking a decision on the prayer made by the appellant seeking extension of time.*"

45. On similar lines in ***Jagtar Singh v. Municipal Corporation of Delhi***,[20] the Division Bench when confronted with a clause similar to that in issue in ***Himalayan Flora (1J)***, held, on an interpretation of the said clause, that the satisfaction of the competent authority concerning the application for extension was an independent discretion vested in it, separate from the condition of a given applicant having a satisfactory performance. The material portion of the said judgement read as under:

"***41.*** *As seen from the above, the Court held that the large discretion granted to the Commissioner of the MCD means that apart from satisfactory performance of the firm, other relevant aspects could also be considered by the Commissioner while taking a decision on extension of the contract. The clause therein and the one in the matter at hand being the same, the said conclusion would be squarely applicable to the facts of this case.*

42. *Further, we have also considered Clause 10 independently and find that the word "and" used between the words "satisfactory performance of the firm" and "as decided by the Competent Authority" makes it clear that the two conditions are independent of each other and have to be read disjunctively. What is being contemplated is a twin condition- satisfactory performance of the firm during the said tenure, and also the satisfaction of the Competent Authority. Even if the performance of the firm is satisfactory, that itself cannot be considered to be the sole factor for the respondents to automatically extend the contract of the petitioners. The construction of the clause has to be interpreted to mean that the Competent Authority is vested with the discretion to take a decision on the extension. If that be so, the petitioners cannot claim extension of the contract solely on the basis that their performance has been satisfactory.*"

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[20] 2026:DHC:1597-DB.

46. The Court, thereafter, took note of the reasons given by the MCD for the rejection of the extension application, them being that the MCD was reeling in financial distress and a conscious call was taken to re-tender and undergo price discovery.

47. In addition to the takeaway on the principles that apply to interpreting contractual terms concerning extensions; from the aforenoted three decisions, it may also be culled out that a contractual stipulation pertaining to the satisfaction of the competent authority prior to the grant of an extension was held to be valid. Such a term was not held by the Division Bench to be legally unsustainable.

48. The aforenoted decisions are, however, not authorities for the proposition that an untrammelled and unguided discretion vests with the competent authority to decide on the application for extension. In each of the aforenoted cases, a threadbare analysis was not undertaken of the reasons for the non-grant of extension, as at first blush the reasons given by the MCD were found to be *ex facie* satisfactory. No occasion, thus, arose, for considering whether no reasons, or a decision which evinces arbitrariness, could be declared sustainable for rejecting an extension application. Needless to say, such acts can never be found sustainable in the eyes of a Constitutional Court.

C. THE PUBLIC TRUST DOCTRINE AS AN AID OF INTERPRETATION

49. In addition to the ordinary and routine rule favouring the literal, strict and plain interpretations, depending upon the nature of a contract, statute, or policy in question, the rule governing its interpretation may change.

50. In ***Union of India v. Vedanta Ltd. and Ors.***,[21] the Division Bench sought to adjudicate upon the question "*how a contract involving Government of India, its right to put condition in larger national interest and as a trustee of natural resources in which the natural resources "vest" constitutionally needs to be interpreted by a Constitutional Court*". It was held that a Production Sharing Contract being concerned with the allocation of natural resources are not ordinary commercial engagements. Being concerned with assets which belong to the people of India, and are managed by the Government of India as their trustee, such a contract interacts with overriding and supervening Constitutional considerations.

51. A statute, contract or policy, concerning natural resources lies on a fundamentally different pedestal and ought to be interpreted in light of the Public Trust Doctrine. Before delving further into the interpretation of the Extension Policy, it would be appropriate to first take note of what the Public Trust Doctrine is and what obligation does it cast.

(i) The Public Trust Doctrine

52. The origins of the Public Trust Doctrine lie in Article 297 of the Constitution which reads as under:

> "***297. Things of value within territorial waters or continental shelf and resources of the exclusive economic zone to vest in the Union.***

[21] LPA 346/2018, Order dt. 26.03.2021, "***Vedanta Ltd.***".

*(1) All lands, minerals and other things of value underlying the ocean within the territorial waters, or the continental shelf, or the exclusive economic zone, of India **shall vest** in the Union and **be held for the purposes of the Union**.*"

[Emphasis supplied]

53. The natural resources of the nation are of the people of India. They are vested with the Union of India as its trustee. The Union is answerable to the people, not merely, in the Court of public opinion, but also in the Court of law. Courts that are established to serve the people, are under a bounden duty to ensure, that the collective rights of the people over nature's bounty is not compromised or severed. The Constitutional obligation put upon the Union of India is paramount and indeed subject to the rigours of constitutional principles.

54. The dispute in ***Reliance Natural Resources Ltd. v. Reliance Industries Ltd.***,[22] stemmed from a Company Application filed by appellant therein before the Bombay High Court under Section 392 of the Companies Act, 1956. The application sought directions for amendments and alterations to the Gas Supply Master Agreement and a model Gas Sale and Purchase Agreement, previously approved by the board of Reliance Natural Resources Ltd. The said agreements were contended to be in non-compliance with, *inter alia*, the Memorandum of Understanding ('**MoU**') executed between Mr. Mukesh D. Ambani, Mr. Anil D. Ambani, and their mother Ms. Kokilaben D. Ambani. The said MoU was in turn contended to be the very reason for the scheme of arrangement filed by Reliance Industries Ltd. to explain the necessity for delving into constitutional

considerations, Sudershan Reddy J., captured the crux of the dispute in the following terms:

> "**149.** *One may ask why in a company petition such a discussion of constitutional values has had to come about. Such is the nature of the dispute itself. The company petition, and the scheme of arrangement that it arises from, ostensibly, are to be dealt under Sections 391 through 394 of the Companies Act; but, involve at their foundations, a claim by Reliance Natural Resources Ltd. that it is entitled to receive, on account of a private pact between members of the Ambani family, vast quantities of natural gas, amounting to a significant portion of what would be available for the entire country, at a low price and for a long time, dehors any policy made by the Government of India. It claims that the Government of India has a right to enter into and has actually entered into a contract that allows Reliance Industries Ltd. to produce and decide how to use a precious and a scarce natural resource belonging to the people of this nation without any governmental supervision. Further, RNRL also claims, that its vested interest in such vast quantities of natural gas is such, that subsequently framed governmental policy cannot have a bearing on such an entitlement irrespective of public interest implications.*"

55. While elaborating on the meaning and implication of the word "*vest*" and the expression "*purposes of the Union*" in Article 297 Reddy J. observed as under:

> ***237.*** *While the word "vest" could normally partake of at least a portion of the full bundle of rights associated with ownership, the phrase "shall vest" as used in Article 297 of the Constitution implies a deliberate, and not an incidental, act by a body at the various constitutional moments that have informed our Constitution. That body is the people as a nation. It is now a well-established principle of jurisprudence that the true owners of "natural wealth and resources" are the people as a nation.*
>
> ***238.*** *The UN General Assembly Resolution 1803 (XVII) of December 1962 states that the "right of the people and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and the well-being of the people of the State concerned". (emphasis supplied) Consequently, we have to hold that it is the people of India, the true owners, who have vested, the inclusive set of*

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[22] (2010) 7 SCC 1, "***RNRL***".

potential resources in a particular class of geographic zones, in the Union, and that it is an act of trust and of faith, with a specific set of instructions.

239. *Those instructions are inscribed, nay genetically encoded and hardwired, in the commands "to be held" "for the purposes of the Union". The core and pure purport of the word "hold" is to conserve, to preserve and to keep in place and it only secondarily means "use" or "disposal". The fact that the phrase "be held" is used in Article 297 of the Constitution, whereas in Article 298 of the Constitution, in its immediate neighbourhood, the word "hold" is used in conjunction with abilities to "acquire" and "dispose" is significant and a clear indication of the intent of the supreme drafter of the Constitution—the people. The use of a series of words in a constitutional setting clearly implies that they are being used precisely, so that overlapping meanings are to be set aside and the purer and the core meanings be delineated. The phrase "be held" when viewed along with the phrase "shall vest", which vesting was done by the people as a nation, can only mean that it was used as a lock to conserve, to preserve and to keep in place. And the key to that lock is also there in the same article of the Constitution: "purposes of the Union" which can only mean the integrity, unity and development of the nation.*"

56. The majority opinion by Sadasivam J. speaking for himself and Balakrishnan CJ., declared that the Public Trust Doctrine is part of Indian law and there is, thus, a duty cast upon the Government to provide complete protection to natural resources as a trustee of the people at large. The material portion of the decision read as under:

"***116.*** *With relation to the public trust doctrine, this Court in M.C. Mehta v. Kamal Nath [(1997) 1 SCC 388] held: (SCC pp. 407 & 413, paras 25 & 34)*

"25. The public trust doctrine primarily rests on the principle that certain resources like air, sea, waters and the forests have such a great importance to the people as a whole that it would be wholly unjustified to make them a subject of private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes.

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34. Our legal system—based on English common law—includes the public trust doctrine as part of its jurisprudence. The State is the trustee of all natural resources which are by nature meant for public use and enjoyment. Public at large is the beneficiary of the seashore, running waters, air, forests and ecologically fragile lands. The State as a trustee is under a legal duty to protect the natural resources. These resources meant for public use cannot be converted into private ownership."

This doctrine is part of Indian law and finds application in the present case as well. It is thus the duty of the Government to provide complete protection to the natural resources as a trustee of the people at large.

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122. *From the above analysis, the following are the broad sustainable conclusions which can be derived from the position of the Union:*

(1) ***The natural resources are vested with the Government as a matter of trust in the name of the people of India. Thus, it is the solemn duty of the State to protect the national interest****.*

(2) ***Even though exploration, extraction and exploitation of natural resources are within the domain of governmental function, the Government has decided to privatise some of its functions. For this reason, the constitutional restrictions on the Government would equally apply to the private players in this process. Natural resources must always be used in the interests of the country, and not private interests****.*

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(5) The Government cannot be divested of its supervisory powers to regulate the supply and distribution of gas."

[Emphasis supplied]

57. One of the implications of the Public Trust Doctrine, which casts a duty upon the Union of India, is to provide complete protection to the natural resources, as was noted by B.S. Reddy J. in his concurring opinion. His Lordship was of the opinion, flowing from his observations on the meaning of the word "*vest*" as it appears in Article 297, that abrogation of permanent sovereignty over natural resources shall be a violation of the Public Trust Doctrine. The Union in turn was prohibited from entering into

such a contract that compromised the said sovereignty. Importantly, the justification for this ruling was opined to be a "*constitutional necessity*" higher in pedestal than a contract or a statute.

58. Thereafter, at para. 250, principles were culled out by Reddy J., as forming part of the Public Trust Doctrine, and a contract, which was in violation of the same was found to fall foul of Article 14 of the Constitution. Para. 249-250 of the opinion of his Lordship is extracted as under:

> ***249.*** *In light of the public trust elements so intrinsic to resources under the seabed, and the special nature of Article 297, the implications of natural gas for India's energy security, and the imperatives of national development—including the concepts of egalitarianism and promotion of interregional parity,* ***we hold that the Union of India cannot enter into a contract that permits extraction of resources in a manner that would abrogate its permanent sovereignty over such resources. It is not just a matter of mere textual provisions in a contract or a statute. It is a matter of constitutional necessity****.*
>
> ***250.*** *We hold that with respect to the natural resources extracted and exploited from the geographic zones specified in Article 297 the Union may not:*
>
> *(1) transfer title of those resources after their extraction unless the Union receives just and proper compensation for the same;*
>
> *(2) allow a situation to develop wherein the various users in different sectors could potentially be deprived of access to such resources;*
>
> *(3) allow the extraction of such resources without a clear policy statement of conservation, which takes into account total domestic availability, the requisite balancing of current needs with those of future generations, and also India's security requirements;*
>
> *(4) allow the extraction and distribution without periodic evaluation of the current distribution and making an assessment of how greater equity can be achieved, as between sectors and also between regions;*
>
> *(5) allow a contractor or any other agency to extract and distribute the resources without the explicit permission of the Union of India, which*

permission can be granted only pursuant to a rationally framed utilisation policy; and

(6) no end user may be given any guarantee for continued access and of use beyond a period to be specified by the Government.

Any contract including a PSC which does not take into its ambit stated principles may itself become vulnerable and fall foul of Article 14 of the Constitution."

[Emphasis supplied]

59. The broader application of the Public Trust Doctrine beyond issues concerning environmental law, though was contested by the Union of India, in the ***Special Reference***, however, the Constitution Bench did not curtail the said doctrine.[23] The said doctrine, therefore, holds the field and serves as an obligation of the State, towards the people concerning its authority over, and handling of, the natural wealth of this country. Owing to it flowing from the Constitution, specifically, Article 297, in cases where it is found to compete with a statute, policy or a contract, the doctrine and obligations under it must naturally prevail.

(ii) Applying the Public Trust Doctrine to Interpret Contracts and Statutes

60. The route given by Reddy J. for upholding the Public Trust Doctrine and the resultantly duty of the Union towards the people, in ***RNRL***, is a declaration of contracts or other instruments, which fall ill of it, as being void or *ultra vires* to Article 14 of the Constitution. It is but obvious, that before such a step for complete invalidation is taken, attempts must be made to harmoniously construe provisions of a Statute or a contract, in light of the

[23] ***Special Reference***, para. 92-93.

Public Trust Doctrine.[24] Such an exercise would entail interpreting the text of the provisions in a statute or a contract so as to further and not denude the principles in the Public Trust Doctrine.

61. Importantly, is apposite to clarify, that it is nobody's case that the PSC which concerns the Block in question, is violative of the Public Trust Doctrine. *Per contra*, a perusal of the recitals of the said contract reveal that it was entered into in public interest i.e., in furtherance of the Public Trust Doctrine. The Extension Policy of MoPNG, also, is in furtherance of the said doctrine. The said principle and doctrine, is being taken note of not to adjudge the validity of the policy or the PSC, but to treat it as a tool for the interpretation of the provisions, clauses and articles. As noted by the Division Bench in ***Vedanta Ltd.*** the interpretation of the provisions of the PSC "*would have to take colour from the Public Trust Doctrine*", the same principle would be applicable to an Extension Policy and its clauses.

D. EXTENSION POLICY

62. In light of the aforenoted, the Extension Policy, which has been declared to have the force of statute, may now be considered.

63. The purpose of the Extension Policy is contained in the first un-numbered paragraph which serves as the preamble, and reads as under:

> "***Policy for the Grant of Extension to the Production Sharing Contracts signed by Government of India awarding Pre-New Exploration Licensing Policy (PreNELP) Exploration Blocks.***
>
> *No. O-19025/07/2014-ONG-D-V - The Government of India has approved a policy for granting extension to the Production Sharing Contracts (PSCs)*

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[24] A similar exercise was undertaken by the Division Bench of this Court in ***Vedanta Ltd.***

*signed by Government of India awarding Pre-New Exploration Licensing Policy (Pre-NELP) Exploration Blocks, **to have a transparent and defined framework for granting extension**. This will help the operators in planning their investments and operations in these fields which will help in optimal exploitation of the reserves. The salient features of the policy are as follows*"

[Emphasis supplied]

64. A timeline is further prescribed under the Extension Policy for considering an application for extension. The same is stipulated in Clause 1 in the following terms:

"***1. Submission, Consideration and Approval of request for extension of Contract:***
The Contractor should submit the application duly approved by the Operating Committee for extension of Contract to Ministry of Petroleum & Natural Gas (MoPNG) at least 2 years in advance of the expiry date of Contract, but not more than 6 years in advance, with a copy to Directorate General of Hydrocarbons (DGH). DGH will make a recommendation to MoPNG within 6 months of submission of application by the contractor. The Government will take a decision on the request for extension within 3 months of receipt of the proposal from DGH."

65. The '*Fiscal Parameters for Extension*' is provided in Clause 2 and reads as under:

"***2. Fiscal Parameters for Extension:***
2.1 Government Share: The Government share of Profit Petroleum during the extended period of contract shall be 10% higher for these blocks, than the share as calculated using the normal PSC provisions in any year during the extended period and hence will vary from year to year based on Investment Multiple (IM) /Post Tax Rate of Return (PTRR).
2.2 Royalty and Gess: During the extended period of Contract, the royalty and cess shall be payable at prevailing rates of nomination regime. Royalty and cess will be payable by all the contractors in proportion to their participating interest."

66. Clause 3 and Clause 4 of the Extension Policy further deal with '*Pre-Requisites for Evaluation*' and '*Criteria for Evaluation*' respectively. Clause 5 of the Extension Policy importantly reads as under:

"*5. **<u>In the event of failure to comply with any of the above conditions, mentioned in clauses 3 and 4 above</u>**, Government shall have the option to invite fresh bids for further development of the area and to award the field to the most competitive bid. Government would also take into account pending arbitration while considering extension requests.*"

[Emphasis supplied]

67. Clause 9 of the Extension Policy bears the heading '*Other Conditions*' and is formulated as a clause detailing the residuary powers of the Government, it reads as under:

"***9. Other conditions**:*
a) Government shall have the right to stipulate any further conditions specific to any particular Production Sharing Contract.

*b) **<u>Government shall reserve the right not to extend PSC without assigning any reason thereof</u>**.*

c) The condition stipulated in this policy will override the existing provision of the PSC.

d) In case any contractor is not agreeable to this policy then the field will be considered for rebidding, on as is where is basis. Government would also have the right to assign the same to National Oil Companies (NOCs) i.e. ONGC or OIL."

[Emphasis supplied]

68. A wholistic consideration of the Extension Policy reveals that it has a two-fold purpose—***first***, to provide to the market players, a transparent and well-defined framework to seek an extension of PSC; and ***second***, to provide the Union of India a mechanism to part with India's natural resources in consonance with the Public Trust Doctrine. The interpretation of the Extension Policy must necessarily aim at striking a delicate balance between the interest of the private parties, the public, and the Union of India.

69. Before the factual matrix can be further examined, two issues pertaining to the interpretation of the Extension Policy arise — ***first***, whether an application for extension can be rejected on grounds other than those mentioned in Clauses 3 and 4 of the Extension Policy; and ***second***, whether the candidature of the petitioner was to be adjudged under the policy as per the facts and circumstances prevailing at the time of tendering the application, or subsequent events can be taken cognizance of.

(i) Whether Clause 5 is the Sole Reservoir of the Union of India's Power to Reject an Application under the Extension Policy

70. Clause 5 of the Extension Policy is contended by the petitioner to be the exclusive clause containing the power to reject an Extension Application.

71. It is Mr. Mehta's case that Clause 9(b) as it appears in the Extension Policy is to be treated as a dead letter, and can never, in its literal sense be operationalised. Providing a power to the State to reject an application for extension on its own *ipsi dixit* without assigning any reasons would lie ill of the very purpose for which the Extension Policy was brought into force.

72. If indeed Clause 9(b) of the Extension Policy was to be interpreted, as providing to the Union of India, an absolute power to reject an application without providing any reasons, according to its own whim, the same shall lie in the teeth of the "*transparent and defined framework*" which the policy is intended to be. It, therefore, needs to be interpreted in a different light.

73. The decision of the Constitution Bench in ***Tinsukhia Electric Supply Co. Ltd. v. State of Assam and Ors.***,[25] which though rendered in the context of interpreting statutes, captures the principle that provisions and clauses ought to be interpreted in manner that gives them effect, and makes them operative. In eloquent terms MN Venkatachaliah J., speaking for Court at para. 118-120 observed as under:

> "***118.*** *The courts strongly lean against any construction which tends to reduce a statute to futility. The provision of a statute must be so construed as to make it effective and operative, on the principle "ut res magis valeat quam pereat". It is, no doubt, true that if a statute is absolutely vague and its language wholly intractable and absolutely meaningless, the statute could be declared void for vagueness. This is not in judicial review by testing the law for arbitrariness or unreasonableness under Article 14; but what a court of construction, dealing with the language of a statute, does in order to ascertain from, and accord to, the statute the meaning and purpose which the legislature intended for it. In Manchester Ship Canal Co. v. Manchester Racecourse Co. [(1904) 2 Ch 352 : 16 TLR 429 : 83 LT 274] Farwell J. said: (pp. 360-61)*
>
> > "*Unless the words were so absolutely senseless that I could do nothing at all with them, I should be bound to find some meaning and not to declare them void for uncertainty.*"
>
> ***119.*** *In Fawcett Properties Ltd. v. Buckingham County Council [(1960) 3 All ER 503] Lord Denning approving the dictum of Farwell, J., said:(All ER p. 516)*
>
> > "*But when a Statute has some meaning, even though it is obscure, or several meanings, even though there is little to choose between them, the courts have to say what meaning the statute to bear rather than reject it as a nullity.*"
>
> ***120.*** *It is, therefore, the court's duty to make what it can of the statute, knowing that the statutes are meant to be operative and not inept and the nothing short of impossibility should allow a court to declare a statute unworkable. In Whitney v. IRC [1926 AC 37] Lord Dunedin said: (AC p. 52)*

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[25] (1989) 3 SCC 709.

> "*A statute is designed to be workable, and the interpretation thereof by a court should be to secure that object, unless crucial omission or clear direction makes that end unattainable.*""

74. Similarly, in ***GP Singh's Principles of Statutory Interpretation***,[26] the following has been observed:

> "***1.4 Statute to be Construed to Make it Effective and Workable***
> ***The courts strongly lean against a construction which reduces the statute to a futility. A statute or any enacting provision therein must be so construed as to make it effective and operative*** *"on the principle expressed in the maxim: ut res magis valeat quam pereat." It is an application of this principle that courts while pronouncing upon the constitutionality of a statute start with a presumption in favour of constitutionality and prefer a construction which keeps the statute within the competence of the Legislature. The importance of the principle can be judged from the fact that there is hardly any reported decision, where a statute may have been declared void for sheer vagueness, although theoretically it may be possible to reach such a conclusion in case of "absolute intractability of the language used", or when "it is impossible to resolve the ambiguity", i.e., when the language is absolutely meaningless. As laid down by Farwell J., "unless the words were so absolutely senseless that I could do nothing at all with them, I should be bound to find some meaning, and not to declare them void for uncertainty". Lord Denning approving Farwell J., stated the principle thus:*
>
> > *But when a statute has some meaning even though it is obscure, or several meanings, even though it is little to choose between them, the courts have to say what meaning the statute is to bear, rather than reject it as a nullity.*
>
> *And it was said by Lord Dunedin:*
>
> > *It is our duty to make what we can of statutes, knowing that they are meant to be operative, and not inept, and nothing short of impossibility should in my judgment allow a judge to declare a statute unworkable.*
>
> *The principle was reiterated by him in a later case where he observed:*
>
> > *A statute is designed to be workable, and the interpretation thereof by a court should be to secure that object, unless crucial omission or clear direction makes that end unattainable.*

---

[26] Justice GP Singh, Principles of Statutory Interpretation, 15th Ed., Lexis Nexis, pp. 50-51.

The courts will therefore reject that construction which will defeat the plain intention of the Legislature even though there may be some inexactitude in the language used. "If the choice is between two interpretations", stated Viscount Simon, LC "the narrower of which would fail to achieve the manifest purpose of the legislation we should avoid a construction which would reduce the legislation to futility, and should rather accept the bolder construction, based on the view that Parliament would legislate only for the purpose of bringing about an effective result". ***The courts may complaint that the enactment is "mind twisting" or an "enigma" yet they do not really concede that no meaning can be given to it, and in their comity with the Legislature, they strive hard to give meaningful life to legislative enactments and avoid cadaveric consequences. "It is not an adequate discharge of duty", said Homes J., "for courts to say: we see what you are driving at, but you have not said it, therefore we shall go on as before****."….*

[Emphasis supplied]

75. In ***National Highways Authority of India v. Madhukar Kumar***,[27] the power of an administrative authority to pass a decision without providing reasons was taken note of. It was clarified that such a power did not entail acting *de hors* reason but merely that the reasons need not be communicated to the person affected by the decision. Para. 40 and 43 of the said decision reads as under:

"***40.*** *An Administrative Authority, exercising judicial or a quasi-judicial power, must record reasons for its decision. This is subject to the exception where the requirement has been expressly or by necessary implication done away.*

***

43. *No order of an administrative authority communicating its decision is rendered illegal on the ground of absence of reasons ex facie and it is not open to the court to interfere with such orders merely on the ground of absence of any reasons. However, it does not mean that the administrative authority is at liberty to pass orders without there being any reasons for the same. In governmental functioning before any order is issued, the matter is generally considered at various levels and the reasons and opinions are contained in the notes on the file. The reasons contained in the file enable*

[27] AIR OnLine 2021 SC 762.

> *the competent authority to formulate its opinion. If the order as communicated rejecting the representation does not contain any reasons, the order cannot be held to be bad in law. If such an order is challenged in a court of law, it is always open to the competent authority to place the reasons before the court which may have led to the rejection of the representation. It is always open to an administrative authority to produce evidence aliunde before the court to justify its action.*"

76. The Extension Policy having been notified, to streamline the process of extensions, in light of the Public Trust Doctrine, incorporates Clause 9(b), which serves as a reservoir of inherent powers to reject an application.

77. Admittedly, in the instant case the Impugned Order records reasons, there is, thus, no direct application of Clause 9(b) of the Extension Policy. However, the existence of such a clause which is couched with the language "*reserve the right*", and allows the rejection of an application without the communication of reasons, as also permits the Union to give justification directly in Court as opposed to the order itself, allows for the conclusion that Clause 5 is not the sole reservoir of the Union of India's power to reject an application under the Extension Policy. Resultantly, the grounds mentioned under Clause 5 for rejecting an application are also not exhaustive.

78. Independently, it may also be noted, that under Clause 3 and 4, the violations which may be considered as a ground for rejection under Clause 5 of the Extension Application merely comprise of technical and efficiency related qualifications. There ought to, however, independent of the technical qualifications of an applicant-company, be an evaluation based on conduct. The mandate given to the Union, under the Public Trust Doctrine is to constantly protect the natural resources of the public.

79. Exhausting and limiting the grounds for rejection, to technical and efficiency related parameters, and disallowing the government to consider the applicant's conduct would in fact fall ill of the Public Trust Doctrine. Indeed if there was such a contract or a Statute, that would require the State to look exclusively at technical qualifications during the grant of an extension and explicitly bar other aspects, it may possibly fall prey to the rigors of Article 14.

80. It can, thus, be concluded that Clause 5 of the Extension Policy is not the sole reservoir of the power of the Government of India to reject an application seeking an extension. As its natural corollary, the grounds mentioned in Clauses 3 and 4 of the Extension Policy are not the only parameters on which an applicant's candidature for an extension is to be tested. At the cost of repetition, it may be stated, that though reasons extraneous to those under Clauses 3 and 4 are being considered, they still remain susceptible to judicial review. The conclusion reached is merely on the point that *de hors* Clause 5, an application can be rejected. The grounds on which that may take place needs to be tested on the constitutional anvil.

(ii) Upon the Expiry of the Timelines does an Automatic Renewal take Place and Whether Events Subsequent to the Making of the Application can be Taken Cognizance of

81. As noted above, Clause 1 of the Extension Policy provides for certain timelines to be followed by the applicant, DGH and the MoPNG. It requires, an application to be made at least 2 years in advance of the expiry date of contract but not more than 6 years in advance. The DGH is then to make a recommendation to MoPNG within 6 months of the submission of the

application by the contractor. The Government in turn is expected to take a decision on the request for extension within 3 months of receipt of the proposal from DGH.

82. In ***State of Tamil Nadu v. Hind Stone***,[28] applications made by private companies under the Tamil Nadu Minor Mineral Concession Rules, 1959 ("**Mining Rules**") for the grant of mining lease, were rejected on the basis of a new rule inserted in the Mining Rules i.e., Rule 8-C, which was brought into force after the applications had been originally made. It was contended by the applicants therein that it was not open to the Government to keep the applications pending for a long time and then to reject them on the basis of the new rule. Negativing the said contention, the Supreme Court held as under:

> *"**13.** Another submission of the learned counsel in connection with the consideration of applications for renewal was that applications made sixty days or more before the date of GOMs No. 1312 (December 2, 1977) should be dealt with as if Rule 8-C had not come into force. It was also contended that even applications for grant of leases made long before the date of GOMs No. 1312 should be dealt with as if Rule 8-C had not come into force. The submission was that it was not open to the government to keep applications for the grant of leases and applications for renewal pending for a long time and then to reject them on the basis of Rule 8-C notwithstanding the fact that the applications had been made long prior to the date on which Rule 8-C came into force. **While it is true that such applications should be dealt with within a reasonable time, it cannot on that account be said that the right to have an application disposed of in a reasonable time clothes an applicant for a lease with a right to have the application disposed of on the basis of the rules in force at the time of the making of the application**. No one has a vested right to the grant or renewal of a lease and none can claim a vested right to have an application for the grant or renewal of a lease dealt with in a particular way, by applying particular provisions. In the absence of any vested rights in anyone, an application for a lease has necessarily to be dealt with according to the rules in force on the date of the*

[28] (1981) 2 SCC 205, "***Hind Stone***".

disposal of the application despite the fact that there is a long delay since the making of the application. We are, therefore, unable to accept the submission of the learned counsel that applications for the grant of renewal of leases made long prior to the date of GOMs No. 1312 should be dealt with as if Rule 8-C did not exist."

[Emphasis supplied]

83. In ***State of Rajasthan and Ors. v. Sharwan Kumar Kumawat and Ors.***,[29] the Court observed as under:

"***Discussion***
Vested right
17. *It is far too settled that there is no right vested over an application made which is pending seeking lease of a government land or over the minerals beneath the soil in any type of land over which the government has a vested right and regulatory control. In other words, a mere filing of an application ipso facto does not create any right. The power of the Government to amend, being an independent one, pending applications do not come in the way. For a right to be vested there has to be a statutory recognition. Such a right has to accrue and any decision will have to create the resultant injury.*
…"

84. While the situation in the instant case is indeed slightly different, there is no change in law, policy or regulation, the pronouncement of ***Hind Stone***, however, details the right that the applicant seeking an extension has, namely, of having its application decided within a reasonable time, and the effect of its infringement/violation, not leading to an automatic renewal. Indeed, in the instant case, the Union of India as well as the DGH has breached the timelines indicated in the Extension Policy, but is its effect an automatic renewal? The answer must be in the negative.

85. There are, no doubt, legislations, rules and regulations that provide for deemed extensions, registrations and licenses. For instance, Rule 10(8) of the Petroleum and Natural Gas Rules, 2025 provides:

"***10. Extension of term of petroleum lease.***
(1) The Central Government and the State Government with the prior approval of the Central Government, as the case may be, may extend a petroleum lease till the end of the economic life of the field, in accordance with these rules, in one or more instalments:

***

(4) The application under sub-rule (3) shall be submitted at any time after the expiry of half of the term or the extended term but not later than six months prior to the expiry of the term or the extended term.
(5) The application submitted under sub-rule (3) shall be accompanied with a non- refundable processing fee of rupees five thousand.
(6) The decision of approval or rejection of the application shall be communicated to the lessee, in writing within one hundred and eighty days of receipt of the application.
(7) In case the State Government does not communicate its decision on the application within ninety days of the receipt of the application, the Central Government at the request of the applicant or of its own accord, shall advise the State Government to expedite the decision on the application.
(8) On the expiry of a period of one hundred and eighty days, if the application has not been decided by the Central Government or the State Government, as the case may be, an application filed in respect of an area falling within the territory of the, —

(i) Central Government, shall be deemed to have been approved by the Central Government and the Central Government shall grant the extension of the petroleum lease in the format specified in Schedule IV; and

(ii) State Government, shall be deemed to have been rejected by the State Government."

[Emphasis supplied]

Further, the Real Estate (Regulation and Development) Act, 2016, under Section 5, makes a provision for automatic registration and reads as under:

"***5. Grant of registration***.
(1) On receipt of the application under sub-section (1) of section 4, the Authority shall within a period of thirty days.

(a) grant registration subject to the provisions of this Act and the rules and regulations made thereunder, and provide a registration number, including a Login Id and password to the applicant for accessing the

[29] (2023) 20 SCC 747, "***Sharwan Kumar Kumawat***".

website of the Authority and to create his web page and to fill therein the details of the proposed project; or
(b) reject the application for reasons to be recorded in writing, if such application does not conform to the provisions of this Act or the rules or regulations made thereunder:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard in the matter.

*(2) If the Authority fails to grant the registration or reject the application, as the case may be, as provided under sub-section (1), **the project shall be deemed to have been registered**, and the Authority shall within a period of seven days of the expiry of the said period of thirty days specified under sub-section (1), provide a registration number and a Login Id and password to the promoter for accessing the website of the Authority and to create his web page and to fill therein the details of the proposed project.*"

[Emphasis supplied]

86. Section 31(4) of the Food Safety and Standards Act, 2006, Section 6(2) of the Factories Act, 1948, Section 6(2) and Rule 9(5) of the Central Goods and Services Tax Rules, 2017 also provide for similar automatic grants/registrations. The fact of the matter, however, remains that in the Extension Policy there is no such provision for automatic grant of an extension.

87. The following discussion contained in ***Craies on Legislation***,[30] deserves reproduction:

"***Casus omissus***
20.1.9 *The passage of Lord Greene's speech in Hankey v Clavering cited above records that the desirability of supporting the legislative purpose does not permit the courts to supply actual deficiencies and remedy actual errors. This was originally the general approach of the courts to ensure that they did not stray into usurping the legislative function. A specific instance of this approach is the rule that a casus omissus is not to be created or*

[30] Craies on Legislation, 12th Ed., Sweet and Maxwell, p. 938.

supplied, so that a statute may not be extended to meet a case for which provision has clearly and undoubtedly not been made.

This rule could once be stated in very strong and broad terms. Lord Halsbury said in Mersey Docks v Henderson:

"No case can be found to authorise any court to alter a word so as to produce a casus omissus."

And the Judicial Committee of the Privy Council said in Crawford v Spooner:

"We cannot aid the legislature's defective phrasing of an Act, we cannot add and mend, and, by construction, make up deficiencies which are left there.'"

88. Further, in the celebrated commentary of ***GP Singh's Principles of Statutory Interpretation***,[31] in eloquent terms it has been observed that "*...a matter which should have been, but has not been provided for in a statute cannot be supplied by courts, as to do will be legislation and nor construction*".

89. Thus, it is not possible for the Court to create a provision in the Extension Policy that upon the expiry of the timelines, an application seeking extensions stands automatically expected. It would not be for the Court to create a *casus omissus* and to read into the Extension Policy a stipulation which is plainly absent.

90. At its highest, it may be considered that upon the expiry of the timelines provided for under Clause 1 of the Extension Policy, the petitioner may have an arguable right to seek a decision on its application by knocking on the doors of the Court. But did the petitioner do so? The answer is an emphatic no. As had been noted above, as per the timeline provided for under the Extension Policy, the Application of the petitioner which was

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[31] Justice GP Singh, Principles of Statutory Interpretation, 15th Ed., Lexis Nexis, pp. 50-51.

submitted to MoPNG on 28.06.2021, should have been decided by 29.03.2022.

91. The list of dates which forms part of the Writ Petition at page 7 records that after the making of the application the first communication/letter made by the petitioner requesting a decision on its Application was on 10.01.2023. The present Writ Petition from page 54 onwards begins a narration of facts and at page 67 mentions the communication/letter dated 10.01.2023. Para. m of the Writ Petition assumes significance and is extracted as under:

> "***m.*** *As Respondent Nos. 1 & 2 failed to act in compliance with the time lines mandated in the 201 7 Policy despite several follow-ups by the Contractor and discussions with Respondent Nos. 1 & 2 in several meetings, Petitioner issued communication dated 10.01.2023 requesting Respondent No. 1 to grant the approval for PSC extension at the earliest to facilitate safe and uninterrupted production operations in the Block. A follow-up communication to Respondent Nos. 1 & 2 was issued by the Contractor Parties jointly on 21.02.2023, specifically referring to the timelines mandated by the 201 7 Policy for deciding the Application. A copy of the Letter dated 10.01.2023 is annexed herewith and marked as Annexure P-5. A copy of the Letter dated 21.02.2023 is annexed herewith and marked as Annexure P-6.*"

92. The said communication/letter dated 10.01.2023 reads as under:

> "*Date: 10 January, 2023*
>
> *Ref: 2022-23/MoPNG/Out/06*
>
> *To*
>
> *Shri. Sunil Kumar Joint Secretary (R/E) Ministry of Petroleum & Natural Gas Shastri Bhawan, Dr. Rajendra Prasad Marg New Delhi – 110001*
>
> ***Subject : Grant of extension for CB/OS-2 Block's PSC***
>
> ***Ref. : CB/OS-2 JV Partners' application for grant of PSC extension dated 28 June, 2021***

Dear Sir,

The Production Sharing Contract ("PSC") for CB/OS-2 Block ("Block") was signed on 30 June, 1998 (valid till 29 June, 2023) between the President of India, Oil & Natural Gas Corporation Limited ("ONGC"), Vedanta Limited ("Vedanta") and Tata Petrodyne Ltd ("TPL").

CB/OS-2 JV Partners submitted an application dated 28 June, 2021 requesting for extension of the PSC under MoPNG Policy dated 7 April, 2017 for the "Grant of Extension to the Production Sharing Contracts signed by Government awarding Pre-New Exploration Licensing Policy Blocks", for a period of 10 years beyond the existing PSC period (i.e 29 June 2033), to commercially monetize the remaining resources and additional exploration potential in the Block.

The MoPNG Policy dated 7 April, 2017 directs that the contractor should submit the application duly approved by the Operating Committee for extension of PSC to MoPNG at least 2 years in advance of the expiry date of contract, with copy to Directorate General of Hydrocarbons (DGH). DGH will make a recommendation to MoPNG within 6 months of application by the contractor. The Government will take a decision on the request for extension within 3 months of the receipt of the proposal from DGH.

CB/OS-2 Joint Venture Partners submitted the Operating Committee approved application for extension of PSC as per MoPNG Policy guidelines on 28 June, 2021. Contractors have been following-up with MoPNG / DGH in this regard and the matter of PSC Extension has been discussed in various meetings. However, we are yet to receive an update from MoPNG / DGH with regards to the PSC Extension.

In view of above, we hereby request MoPNG's intervention and request for grant of approval for PSC Extension for CB/OS-2 block at the earliest. This is to facilitate safe and uninterrupted production operations from CB/OS-2 Block.

Regards,

Sunipa Roy
SBU President – Offshore & MC Member"

93. While para. m of the Writ Petition as also the letter extracted above makes bald references to "*various meetings*", no minutes of such meetings,

or any other material evidencing the same, has been put on record to support the averments made. A bare perusal of the letter would also highlight that the reference contained in the letter is only to the petitioner's Application and no previous communication. The subsequent letters of the petitioner, made to the respondent no. 1 and 2, which form part of the record, requesting a decision on its application, also, make a reference to this letter of 10.01.2023, indicating the same to the first communication made by the petitioner.

94. From the material on record, it is clear that the first communication/letter sent by the petitioner requesting a decision on its Application, was on 10.01.2023 i.e., 9 months 12 days after the expiry of the purported deadline under the Extension Policy. Even thereafter, the petitioner did not move a Court of law to enforce its purported right to have its Application decided. It waited for the Impugned Order to be passed and then to assail it. It would be important to highlight that the instant Writ Petition was filed by the petitioner 3 days after the passing of the Impugned Order.

95. Thus, by its own conduct, if at all the petitioner had a right to have its application considered in a reasonable period of time, the same right was defeated, made infructuous, and incapable of enforcement, by the petitioner itself, owing to not having acting upon it. The diligence of the petitioner, remains suspect.

96. The question of whether the factual matrix freezes as on the date of the making of the application for the purposes of consideration may now be

considered. Mr. Mehta has strenuously relied on the text of the policy and its exact formulation to claim that the Extension Policy contemplates an examination on the basis of the circumstances as they existed at the time of the making of the application. He has, *inter alia*, placed specific reliance on the usage of the expression "*Application for extension of contract should fulfil*" as it appears in Clause 3.2 of the Extension Policy, to contend that the factual matrix for the purposes of determining the candidature for an extension froze on the date of the making of the application.

97. The said argument seems to fall ill of the conduct of the petitioner. Clause 3.2 (c) – (d) of the Extension Policy reads as under:

> "***3.2 The application of extension of contract should fulfill the following conditions for consideration:***
> …
> *c) Contractor would submit Field Development Plan/ Revised Field Development Plan (RFDP) for the proposed extension period at the time of submission of application, for exploitation of the remaining reserves. This will include, but not be limited to, the following:*
>
> *(i) In place-Oil Initially in Place (OIIP) and Gas Initially in Place (GIIP)*
> *(ii) Balance 2P/P50 Recoverable Reserves but not be (GIIP)*
> *(iii) Future Production Profile based on Reservoir Simulation Studies*
> *(iv) Proposed Work Programme and the estimated expenditure for the proposed extension period.*
>
> *d) Such RFDP will be considered by the Management Committee (MC) and where thought fit, the MC will grant conditional approval for such development plan (including the period beyond the current PSC), subject to the condition of extension of PSC being granted by the Government under this policy. Such conditional approval by MC will not confer any right on the Contractor for extension in PSC period.*"

98. If Mr. Mehta's argument was to be accepted, the petitioner's candidature ought to be considered as per the Field Development Plan/Revised Field Development Plan dated 28.06.2021 submitted along

with the Application. However, the petitioner, itself, recognising the effect of efflux of time on matters as sensitive as the one which concerns the present dispute, acceded to the request of the DGH to submit updated production profile with economics for PSC extension period based on the outcome of the recent drilling campaign. The revised plan was submitted by it on 15.06.2023, years after the submission of the Application. A narration of the aforesaid is contained in the Minutes of the Co-Ordination and Facilitation Committee Meeting for the Block dated 28.03.2024 which read as under:

> "***Agenda No. 1: Approval of Revised Field Development Plan (RFDP) for extension of PSC under GoI Policy dated 07.04.2017***
>
> *Views of the Contractor/DGH/MoPNG*
>
> ***Contractor's Views:***
> *CB JV Partners submitted application requesting extension of PSC under "GoI Policy dated 7th April 2017 for the Grant of Extension to the Production Sharing Contracts signed by Government awarding Pre-New Exploration Licensing Policy Blocks" for a period of ten years beyond the existing PSC period (i.e. till 29 June 2033), to commercially monetize the remaining resources.*
> *CB JV Partners also submitted RFDP for CB/OS-2 Contract area vide OCR#478 dated 28th June, 2021 as part of document for PSC extension application. The RFDP includes production profile for 10 years, post PSC period.*
> *CB JV Partners had aligned to recommend the reserves estimated by third party (i.e. D&M) for base case along with the application dated 28th June 2021 for the extended period for the purpose of seeking PSC extension for 10 year period w.e.f. 30th June 2023.*
> ***Further, DGH requested Contractors to submit updated production profile with economics for PSC Extension period based on the outcome of the recent drilling campaign and same has been submitted by CB JV Partners on 15th June 2023 as requested by DGH.*** (highlighted)
> *Summary of the D&M reserve estimate and updated production profile is submitted below for reference.*
> …
> *** Production profile attached in Annexure-I*

> ***DGH views:***
> *Contractor submitted RFDP on 28.06.2021 for PSC extension of CB-OS/2 as per PSC extension policy dated 07.04.2017. The RFDP was examined at DGH. However, looking at ongoing Drilling campaign in the block, Contractor was suggested to include updated production profile in the RFDP. The post-drill profile and techno-economics have been examined and agreed at DGH with recoverable reserves of 11.868 MMBL oil and 24.34 BCF (NANG+ANG) gas in next 10 years (till 29.06.2033) with existing wells. Final agreed STOIIP of 199.16 MMBBL (19% increase from 2021 submission) and NANG of 30.3 BCF (0.86 BCM, 53.2% decrease from 2021 submission). The estimated Capex is 11.5 MUSD (Laxmi- 8.5, Gauri-3.0). The updated post-drill techno-economics have been examined and found positive in all scenarios (Crude oil @ 50/65/75/85 USD/bbl & for Gas @ 6/8/10/11 USD/MMBTU) with/without levies. The agreed production profile is attached as Annexure-I.*"

99. Thus, the petitioner, by its conduct had accepted that, in principle, facts which took place after the making of the application and before the passing of the final order can be taken into consideration.

100. Another independent aspect of this issue concerns the application of the Public Trust Doctrine. It is established that an automatic extension of a PSC does not take place upon the expiry of the timelines mentioned under the Extension Policy. Further, in the instant case there is no specific Clause which provides an embargo on taking into account events subsequent to the making of the application. The high constitutional obligation to act as a trustee of nature's bounty and to perennially protect public resources, would, in the absence of a prohibition/embargo, require and mandate the State to adjudge the candidature of an applicant as per the facts and circumstances as they exist on the date on which rights, privileges and benefits concerning natural resources are being conferred upon it.

101. Since there is no explicit bar from taking into account events subsequent to the making of the application, the State is well within its right to examine, whether a given applicant has done certain acts which disentitle it, under the Extension Policy, from becoming the beneficiary of exploitation of the country's reserve.

102. This, does not, however, in any way, grant a license to the Union to take into consideration subsequent events which have no bearing whatsoever on the candidature of the applicant, or facts over which the petitioner had no control. The discussion above merely finds that there is no inherent bar either in the Extension Policy or in law to consider facts which arose after an application was made seeking extension. The ultimate decision of the Government taken on the basis of these subsequent facts shall nonetheless remain subject to the rigours of Article 14 and the requirement of non-arbitrariness.

103. In light of the discussion above, it can safely be concluded that neither does the petitioner get an automatic extension on the expiry of the timelines mention in the Extension Policy, nor is there an inherent bar from taking into cognizance events which occurred after the petitioner made its Application to the MoPNG seeking an extension of the PSC.

E. THE OFFENDING ACTION OF THE PETITIONER

104. At this stage, the actions of the petitioner which justify the rejection of the petitioner's Application for the extension of the PSC may be considered. The factual background in relation to it may also be taken note of.

105. On 30.06.2022 while the Application of the petitioner seeking an extension was pending, the Government of India issued Notification No. 05/2022 imposing a Special Additional Excise Duty on the manufacturing/production of petroleum crude under Section 147 of the Finance Act, 2002 (No. 20 of 2002) with effect from 01.07.2022. The petitioner, under the said Finance Act, was liable to pay the said duty to the Central Excise Department.

106. While relying upon a Clause in its PSC with the Union of India, specifically Clause 16.7, the petitioner, sometime in the month of July/August of 2022 proposed that the amount payable by the petitioner, towards Special Additional Excise Duty, to the Central Excise Department, be adjusted from the amounts payable to the Government of India as Profit Petroleum under the PSC. The MoPNG *vide* letter dated 28.09.2022, unequivocally and in categorical terms rejected this proposal of the petitioner to adjust the amount payable towards Special Additional Excise Duty with the Central Excise Department from the dues payable to the Government of India on account of Profit Petroleum under the PSC. The reliance placed by the petitioner on Article 16.7 of the PSC for undertaking the aforesaid deduction from the share of the Union was also stated to be untenable and misconceived. The said letter reads as under:

> "*Sir,*
>
> *I am directed to refer to the subject mentioned above and to say that this Ministry is in receipt of your letters referred hereinabove.*
> *The Issues raised in the above references have been examined in this Ministry in consultation with Directorate General of Hydrocarbons (DGH).*
> *It has been decided with the approval of Competent Authority in this Ministry that:-*

i. By way of the aforesaid letters, you have requested us to provide a confirmation on your proposal to adjust the amount payable towards Special Additional Excise Duty ("SAED") with the Central Excise Department from the dues payable to the Government of India on account of Profit Petroleum. In addition, in your letter dated 12th August 2022, you have made an alternate request for suggesting a mechanism to adequately restore the Contractor parties to what is purported to be their original position. Such request is untenable and misconceived. Further, your reliance on Article 16.7 of the subject PSC in support of this request, is equally misconceived.

***

iii. As mentioned earlier, it is stated that your reliance on Article 16.7 of the PSC, is misplaced. Given the unambiguous and unequivocal language of Article 16.7, your reliance on the said provision is ***untenable and contrary to the terms of the PSC and has no basis, either in law or in facts.***

***

v. Therefore, Article 16.7 of the PSC categorically sets out certain pre-conditions/pre requisites that are required to be necessarily fulfilled, for the provision to be invoked/made applicable. Your letters/communications do not disclose as to how the imposition of SAED has materially changed the pre-conditions with respect to expected economic benefits. ***As such, your purported invocation of Article 16.7 of the PSC is wholly misplaced and does not merit any consideration.***

vi. Without prejudice to the above, ***Article 16.7 of the PSC does not authorize contractor/Parties to make any adjustment, much less an adjustment from the dues to the Government of India on account of Profit Petroleum. The proposal is not in consonance with the provisions of the PSC and is rejected****. Article 16.7 requires the contractor to establish the material change to the expected economic benefit, as envisaged and submitted by the contractor in accordance with the provisions of the PSC.*

vii. ***As you are aware, the PSC is a contract related to the exploration and exploitation of a natural resource which is vested with the Union of India under Article 297 of the Constitution of India. Thus, there is an inherent character of national and public interest in the implementation of the PSC. This Ministry understands that SAED has been imposed on domestic crude producers to curb the windfall gains accrued on account of sale on international parity prices. This is applicable across all the oil and gas contracts awarded by the Government of India, subject to the conditions contained in the notification related to SAED and not just to the present PSC. Therefore, your unilateral request for adjustment from the dues to*** *__the Government of India on account of Profit Petroleum is unreasonable and untenable.__*

viii. __In the event the Contractor parties proceed to adjust the amount paid under SAED from the dues on account of Profit Petroleum, such action will be in breach of the provisions of the PSC and accordingly, the Government of India reserves its rights to take appropriate steps in accordance with law in this regard.__

ix. The present letter is without prejudice to any of Government of India's rights and Government of India specifically reserves all its rights and remedies under the PSC as well as under law, equity or otherwise, in respect of the matters referred to in this reply or even otherwise.
...
Yours faithfully,
Sd/-
(Awdhesh Kumar Mehta)
Under Secretary to the Govt. of India"

[Emphasis supplied]

107. Notwithstanding the aforenoted letter of the MoPNG, the petitioner herein, deducted from the Union's share of Profit Petroleum amounts which the petitioner owed to the Central Excise Department under the Special Additional Excise Duty from Q2 FY 2022-23 till Q2 FY-2024-25. The said amount as per the petitioner amounted to USD 9.33 Million, which as per the prevailing exchange rates, approximately amounts to 88 Crores.

108. Taking exception to the petitioner's conduct of unilaterally reducing the Government of India's share by approximately 88 Crores, DGH sent a letter dated 28.01.2025 to the petitioner calling upon it to remit the short-fall in Union's share of Profit Petroleum within a period of 7 days from the date of receipt of the letter. It was specifically noted in the said letter that the act of conduct of the petitioner is a serious breach of the agreed terms and

conditions of the PSC and is causing a huge financial loss to the Central Exchequer. The said letter is extracted as under:

> "*DIRECTORATE GENERAL OF HYDROCARBONS*
> *Ministry of Petroleum & Natural Gas*
> *Government of India*
> *DGH/CF/CB-0S/2/SAED/2024-25/01 Date: 28-01-2025*
> *Shri Rakesh Agiwal,*
> *Chief Policy and & Regulatory Officer*
> *Vedanta Limited*
> *4th Floor, ASF Centre,*
> *Block A Plot No. 362-363,*
> *Udyog Vihar Phase IV,*
> *Gurugram-122016 (Haryana)*
>
> ***Subject: Short Paid GOI share of PP on account of adjustment of Special Additional Excise Duty (SAED) in Block-CB-OS/2.***
>
> *Dear Sir,*
> ***Your attention is invited to the above captioned subject, whereby DGH/GOI has directed you to pay the short paid GOI share of PP on account of adjustment of Special Additional Excise Duty (SAED) while remitting the GOI share of PP. However, till date the said amount has not been deposited.***
>
> ***This conduct of Vedanta is serious breach of the agreed terms and conditions of the PSC causing huge financial losses to Central Exchequer.***
> ***Vedanta / CEHL is once again called upon to deposit the short paid GOI share of PP amounting to USD 10.13 MM along with applicable interest on account of SAED adjustment made while remitting the GOI share of PP till 30.09.2024*** *within 7 days of the receipt of this letter. In case the amount is not paid within 7 days GOI may initiate actions under Article 30 of the PSC.*
> *The forgoing is without prejudice to the GOI's right under the PSC and applicable law.*
>
> *Yours Sincerely*
> *Sd/-*
> *(Uttam Paul)*
> *HOD-Contract Finance,*
> *Directorate General of Hydrocarbons,*
> *Ministry of Petrolem & Natural Gas, Govt. of India,*

OIDB Bhawan, Tower-A, Plot No.2, Sector-73, NOIDA-201301. INDIA
Copy to:
JS (Exp), MoP&NG."

[Emphasis supplied]

109. On 12.09.2025, 7 days before the passing of the Impugned Order, perhaps owing to a sudden realisation, the petitioner paid the amount it had deducted from Government of India's share of profit petroleum, excluding interest, for its liability under the Special Additional Excise Duty. The same was communicated to MoPNG *vide* a letter of the same date. The purported ground on the basis of which the petitioner had made its deductions pertained to a certain entitlement under Article 16.7 of the PSC, which reads as under:

> "***16.7 Changes to Indian Laws***
> *If any change in or to any Indian Law, rule or regulation dealing with income tax or other corporate tax, export/import tax, excise, customs duty, or any other levies, duties or taxes imposed on Petroleum or dependent upon the value of Petroleum results **<u>in a material change to the expected economic benefits</u>** accruing to any of the Parties after the Effective Date of the Contract, the **<u>Parties shall consult promptly in good faith to make necessary revisions and adjustments to the Contract in order to maintain such economic benefits to each of the Parties</u>**, provided however, **<u>that the expected economic benefits to the Parties shall not be reduced as a result of the operation of this Article</u>**.*

[Emphasis supplied]

110. It is the petitioner's case that the Government of India did not engage in the good faith consultation mandated under the said Article and further that *vide* a letter dated 25.07.2025, the petitioner had sought a reference to the Committee of External Eminent Experts, but the Government has responded to the said request of the petitioner. It is apparent that the said

reference was sought by the petitioner after unilaterally deducting the Government's share of Profit Petroleum and not before it.

111. The question which, thus, arises for consideration is whether there is anything in Article 16.7 of the PSC which would allow the petitioner to deduct any amounts from the Government's share of profit petroleum, if, as the petitioner claims, the Government has not engaged in good faith consultations. The answer to the said question is categorically and unequivocally in the negative.

112. Even if the said Clause is given the most favourable of interpretations, it may amount to granting the petitioner a right to seek the maintenance of its economic benefits, and not get them reduced, through the means of "*necessary revisions and adjustments*" to the Contract, upon it being proven that there is a "*material change*" to the expected economic benefit accruing to the petitioner, owing to a change in or to an Indian law dealing with, *inter alia*, tax customs, duties imposed on petroleum or dependent upon the value of petroleum.

113. There, thus, needs to be judicial adjudication determining the rights and liabilities of the parties, and rendering a positive finding that there is, *inter alia*:

a. A "*material change*" to the petitioner's expected economic benefit; and

b. The same is a result of change in or to Indian law dealing with, *inter alia*, tax customs or duties imposed on petroleum or dependent upon the value of the petroleum.

114. Depending upon the outcome of the afore-noted adjudication, the judicial forum shall then decide what shall be the necessary revisions and adjustments to the PSC which will lead to maintaining the parties' economic benefits. Importantly, the usage of the word "*Party*" in Article 16.7 of the PSC includes not merely the Contractors but also the Government of India. Thus, any change or modification made to the PSC, must also ensure that the benefits of the Government remain the same.

115. If at all, there was a failure on the part of the Government of India to engage in consultations with the petitioner, which in turn prevented it to seek an adjudication on its rights under Article 16.7, the petitioner ought to have resorted to the detailed dispute redressal mechanism provided for under Article 33 of the PSC, a portion of which reads as under:

> "***33.1*** *The Parties shall use their best efforts to settle amicably all disputes, differences or claims arising out of or in connection with any of the terms and conditions of this Contract or concerning the interpretation or performance thereof.*
>
> ***33.2*** *Except for matters which, by the terms of this Contract, the Parties have agreed to refer to a Sole Expert and any other matters which the Parties may agree to so refer, any dispute, difference or claim arising between the Parties hereunder which cannot be settled amicably may, subject to Article 33.11, be submitted by any Party to arbitration pursuant to Article 33.3. Such Sole Expert shall be an independent and impartial person of international standing with relevant qualifications and experience appointed by agreement between the Parties. Any Sole Expert appointed shall be acting as an expert and not as an arbitrator and the decision of the Sole Expert on matters referred to him shall be final and binding on the*

> *Parties and not subject to arbitration. If the Parties are unable to agree on a Sole Expert, the matter may be referred to arbitration.*
>
> ***33.3** Subject to the provisions herein, the Parties hereby agree that any unresolved dispute, difference or claim which cannot be settled amicably within a reasonable time may, except for those referred to a Sole Expert under Article 33.2 and subject to Article 33.11, be submitted to an arbitral tribunal for final decision as hereinafter provided.*"

116. In the absence of there being the requisite judicially approved necessary revisions and amendments in the PSC, as provided for under Article 16.7, the petitioner was obligated to provide the full share of Profit Petroleum to the Government of India, without any deductions. As detailed by the petitioner in its Additional Affidavit dated 17.12.2025, though to make a different point, the share of the Government of India is to be calculated as:

> "***5.** In accordance with Article 15 of the PSC read with Clause 2.1 of the 2017 Policy, the Government is currently entitled to 65% of the Profit Petroleum from Gauri Field and 55% of Profit Petroleum from the Lakshmi Field. Profit Petroleum is calculated by subtracting the Contract Costs, i.e. the costs incurred on Exploration, Development and Production Operations, from the revenue generated from sale of Crude Oil and Gas (Article 1.23 read with Article 1.72 of the PSC).*"

117. By unilaterally assuming there to be a material change, and the change/revision in the PSC, which would maintain the economic benefit of the parties including the Government of India, to be a deduction from the Government of India's share of Profit Petroleum, the petitioner has acted as a judge, jury, and executioner in its own case. It is exceedingly important to stress the nature of the act undertaken by the petitioner. Clause 16.7 requires a material change in a specific kind/category of laws. Neither all degrees of changes, nor all kinds of legislations are covered within it. Whether or not the legislation in question, and the change so made is covered within Clause

16.7 requires, necessarily, a judicial mind being applied to the issue and findings being rendered. In the absence of it, the petitioner could assume every change in each of the laws in force, to be falling within the contours of Article 16.7, deduct the share of Government of India till it reaches nil, and, thereafter, state that it is Union of India which must initiate a dispute resolution mechanism.

118. *Ex facie* the said unilateral deduction was not *bona fide*. The petitioner is handling public resources of the people of India. The scheme of the PSC is such as would require the private company to give the share of the Government. This arrangement does, to a certain extent, put the private company in a dominant position as the reigns of the Government share lie in its hands. It must, however, be extra-cautious while treading this course. The Government cannot be held ransom to the whims of a private company, which as per its fancies, interpretations, wishful dreamy adjudications tramples upon the Union's share.

119. What is more, the act undertaken by the petitioner, while short-circuiting a judicial adjudication, is not for a holy purpose of protecting or serving public interest, or protecting the natural resources, but rather to "*maintain its economic benefits*", before undergoing an adjudication *qua* the same. By doing so, the petitioner has also breached its obligations under the constitutionally prescribed Public Trust Doctrine.

120. A brief reference may again be made to the following portion of Sathasivam J.'s opinion in ***RNRL*** where speaking for himself and Balakrishnan CJ. it was held as under:

> "***122.*** *…*
> *(2) Even though exploration, extraction and exploitation of natural resources are within the domain of governmental function, the Government has decided to privatise some of its functions.* ***For this reason, the constitutional restrictions on the Government would equally apply to the private players in this process. Natural resources must always be used in the interests of the country, and not private interests***."

[Emphasis supplied]

121. The Minister of State in MoPNG while answering on 10.05.2012 Unstarred Question No. 5700, stated on the floor of Lok Sabha that the "*reasons for awarding the fields/blocks to Private/JVs were to attract foreign investments, technologies and experience required for proper field developments and maximize exploitation of discovered oil and gas reserves*". The necessity and requirement of a growing and developing nation back in the 1998 when the instant PSC was entered into ought not to be taken advantage of by the petitioner herein.

122. The petitioner, while unilaterally deducting the Government of India's share of Profit Petroleum, unfortunately, has utilised India's natural resources for its own benefits, rather than for the interest of the Country. In doing so it has breached the obligations under the Public Trust Doctrine, which in turn flow from the Constitution of India.

(i) Whether the Offending Action can be Considered as a Ground to Reject the Petitioner's Application

123. At this stage before delving into further analysis, two principles concerning administrative and constitutional law may be taken note of.

124. ***First***, when a given issue concerns public interest as it inherently does when the Court is grappling with a natural resource, its distribution and

exploitation, the principle of ***Mohinder Singh Gill and Anr. v. Chief Election Commissioner and Ors.***,[32] has been severely diluted to the effect that reliance can be placed on documents and reasoning which does not bear out, strictly, from the order impugned. For the said proposition reliance can be placed on the decision of the Supreme Court in ***All India Railway Recruitment Board v. K. Shyam Kumar***,[33] paras. 44 and 45 of which read as under:

> "***44.*** *We are also of the view that the High Court has committed a grave error in taking the view that the order of the Board could be judged only on the basis of the reasons stated in the impugned order based on the report of Vigilance and not on the subsequent materials furnished by CBI. Possibly, the High Court had in mind the Constitution Bench judgment of this Court in Mohinder Singh Gill v. Chief Election Commr. [(1978) 1 SCC 405]*
>
> ***45.*** *We are of the view that the decision-maker can always rely upon subsequent materials to support the decision already taken when larger public interest is involved. This Court in Madhyamic Shiksha Mandal, M.P. v. Abhilash Shiksha Prasar Samiti [(1998) 9 SCC 236] found no irregularity in placing reliance on a subsequent report to sustain the cancellation of the examination conducted where there were serious allegations of mass copying. The principle laid down in Mohinder Singh Gill case [(1978) 1 SCC 405] is not applicable where larger public interest is involved and in such situations, additional grounds can be looked into to examine the validity of an order. The finding recorded by the High Court that the report of CBI cannot be looked into to examine the validity of the order dated 4-6-2004, cannot be sustained.*"

125. ***Second***, an order that references a wrong provision or clause, does not become unsustainable and its quashing is not warranted, if the authority passing the order had the requisite powers and jurisdiction vested in it to do the act or issue the directions provided in the said order. The said principle is well settled. Illustratively the following two decisions may be taken note of.

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[32] (1978) 1 SCC 405.
[33] (2010) 6 SCC 614.

In ***Municipal Corpn. of the City of Ahmedabad v. Ben Hiraben Manilal***,[34] at para. 5 the Supreme Court summarised the principle as under:

> "**5.** *...It is well settled that the exercise of a power, if there is indeed a power, will be referable to a jurisdiction, when the validity of the exercise of that power is in issue, which confers validity upon it and not to a jurisdiction under which it would be nugatory, though the section was not referred, and a different or a wrong section of different provisions was mentioned. See in this connection the observations in Pitamber Vajirshet v. Dhondu Navlapa [ILR (1888) 12 Bom 486, 489] . See in this connection also the observations of this Court in the case of L. Hazari Mal Kuthiala v. ITO, Special Circle, Ambala Cantt. [AIR 1961 SC 200 : (1961) 1 SCR 892 : (1961) 41 ITR 12, 16 : (1961) 1 SCJ 617] This point has again been reiterated by this Court in the case of Hukumchand Mills Ltd. v. State of M.P. [AIR 1964 SC 1329 : (1964) 6 SCR 857 : (1964) 52 ITR 583 : (1964) 1 SCJ 561] where it was observed that it was well settled that a wrong reference to the power under which action was taken by the Government would not per se vitiate that action if it could be justified under some other power under which Government could lawfully do that act. See also the observations of the Supreme Court in the case of Nani Gopal Biswas v. Municipality of Howrah [AIR 1958 SC 141 : 1958 SCR 774, 779 : 1958 SCJ 297 : 1958 Cri LJ 271]*."

126. A three-judge bench of the Supreme Court comprising of RC Lahoti, Brijesh Kumar and Arun Kumar JJ, further held as under:

> "***9.*** *It is well settled that if an authority has a power under the law merely because while exercising that power the source of power is not specifically referred to or a reference is made to a wrong provision of law, that by itself does not vitiate the exercise of power so long as the power does exist and can be traced to a source available in law.*"

127. It may now be noted that in the Counter-Affidavit of DGH, it has been stated that the Impugned Order has been primarily passed owing to, *inter alia*, the unilateral deduction by the petitioner, from the Union's share of

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[34] (1983) 2 SCC 422.

profit petroleum. The material portion of Para. 10 and 11 of the DGH's Counter Affidavit[35] reads as under:

> "***10.*** *With regard to the contention of the Petitioner that the Impugned Rejection letter was issued on the basis of irrelevant conditions, it is most pertinent to clarify that the Rejection letter was issued on primarily the grounds of unilateral deductions of the Profit Petroleum and…*
>
> ***11.*** *Therefore the Impugned Rejection letter in clear terms communicated the decision of the GoI to reject the Application for extension on grounds of violation of the 2017 Policy, breach of the PSC, and most importantly, breach of trust…*"

128. Merely, because the Impugned Order treats the issue concerning the Special Additional Excise Duty under the heading of dues not payable, does not preclude the MoPNG or the DGH from supporting its decision on the ground that the offending act, on the basis of which the decision to reject the petitioner's Application was take, was the deduction of the Profit Petroleum itself. Even though the Impugned Order refers to Clause 3.2 while considering the petitioner's offending act, the action can very well be considered to have been passed in exercise of powers under Clause 9(b) which is the residuary clause and allows the MoPNG to take grounds for rejection separate from those provided under Clause 5 of the Extension Policy. As has been noted above, the power to utilize such a ground for rejection was vested with the Union under the Extension Policy itself.

129. To adjudicate upon the present *lis* there is no requirement to delve into exhaustively on what grounds an application can be rejected, however, for the present purpose, the offending act of the petitioner being as serious

[35] The quoted para. 10 is found at page 136 of the Counter Affidavit. This clarification is

and shocking as it is, it can safely be concluded that the petitioner's conduct will justifiably find a mention in such grounds, which can be resorted to under the residuary powers of Clause 9(b) of the Extension Policy.

(ii) The Grounds to Challenge a Rejection of an Extension Application on the Basis of the Offending Action and the Test of Arbitrariness

130. At the outset a few decisions on the issue of arbitrariness, and its meaning thereof, may be taken note of.

131. In ***Special Reference*** the Constitution Bench painstakingly analysed the evolution of Article 14 in the contractual domain, as also in the realm of Article 297 of the Constitution. Ultimately, it was concluded, in broad terms, (per DK Jain J.):

> *"**107.** From a scrutiny of the trend of decisions it is clearly perceivable that the action of the State, whether it relates to distribution of largesse, grant of contracts or allotment of land, is to be tested on the touchstone of Article 14 of the Constitution. A law may not be struck down for being arbitrary without the pointing out of a constitutional infirmity as McDowell case [(1996) 3 SCC 709] has said. Therefore, a State action has to be tested for constitutional infirmities qua Article 14 of the Constitution. The action has to be fair, reasonable, non-discriminatory, transparent, non-capricious, unbiased, without favouritism or nepotism, in pursuit of promotion of healthy competition and equitable treatment. It should conform to the norms which are rational, informed with reasons and guided by public interest, etc. All these principles are inherent in the fundamental conception of Article 14. This is the mandate of Article 14 of the Constitution of India.*

132. In the ***2G Case*** the twin aspects of equality in the context of distribution of natural resources were stated to be the following:

> *"**85.** As natural resources are public goods, the doctrine of equality, which emerges from the concepts of justice and fairness, must guide the State in*

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necessary owing to there being two "para. 10" in the Counter Affidavit.

determining the actual mechanism for distribution of natural resources. In this regard, the doctrine of equality has two aspects: first, it regulates the rights and obligations of the State vis-à-vis its people and demands that the people be granted equitable access to natural resources and/or its products and that they are adequately compensated for the transfer of the resource to the private domain; and second, it regulates the rights and obligations of the State vis-à-vis private parties seeking to acquire/use the resource and demands that the procedure adopted for distribution is just, non-arbitrary and transparent and that it does not discriminate between similarly placed private parties."

133. On the meaning and import of the word arbitrariness ***Shreelekha Vidyarthi*** noted as under:

"***36.*** *The meaning and true import of arbitrariness is more easily visualized than precisely stated or defined. The question, whether an impugned act is arbitrary or not, is ultimately to be answered on the facts and in the circumstances of a given case. An obvious test to apply is to see whether there is any discernible principle emerging from the impugned act and if so, does it satisfy the test of reasonableness. Where a mode is prescribed for doing an act and there is no impediment in following that procedure, performance of the act otherwise and in a manner which does not disclose any discernible principle which is reasonable, may itself attract the vice of arbitrariness. Every State action must be informed by reason and it follows that an act uninformed by reason, is arbitrary. Rule of law contemplates governance by laws and not by humour, whims or caprices of the men to whom the governance is entrusted for the time being. It is trite that 'be you ever so high, the laws are above you'. This is what men in power must remember, always.*"

134. In the recent decision of ***Sky Power*** while taking note of a catena of earlier decisions, on the meaning of the term arbitrary the Supreme Court held as under:

"***75.*** *We would, therefore, sum up as to when an act is to be treated as arbitrary. The Court must carefully attend to the facts and the circumstances of the case. It should find out whether the impugned decision is based on any principle. If not, it may unerringly point to arbitrariness. If the act betrays caprice or the mere exhibition of the whim of the authority it would sufficiently bear the insignia of arbitrariness. In this regard supporting an order with a rationale which in the circumstances is found to* *be reasonable will go a long way to repel a challenge to State action. No doubt the reasons need not in every case be part of the order as such. If there is absence of good faith and the action is actuated with an oblique motive, it could be characterised as being arbitrary. A total non-application of mind without due regard to the rights of the parties and public interest may be a clear indicator of arbitrary action. A wholly unreasonable decision which is little different from a perverse decision under the Wednesbury doctrine would qualify as an arbitrary decision under Article 14. Ordinarily visiting a party with the consequences of its breach under a contract may not be an arbitrary decision.*"

135. At the outset, it may be noted that specifically in the context of the Special Additional Excise Duty, it was never the petitioner's case that the said claim was not asserted or claimed. In the writ petition it has stated:

"***11.*** *Further, none of these commercial claims were asserted or claimed [**except for SAED**, which was paid to Respondent No. 1 on 12.09.2025 under protest and subject to arbitration] …*
*****
14. *…*
*(a) Respondent Nos. 1 & 2 neither asserted these commercial claims nor put the Contractor to notice in respect thereof (**other than SAED** which has already been paid under protest)*"

[Emphasis supplied]

136. The exact grounds taken in the writ petition concerning the Special Additional Excise Duty are as under:

"*P. For that the dispute regarding SAED recovered by the Contractor also arose after the date of the Application and cannot be a ground for denying extension of the PSC term. The SAED of USD 9.33 Million was recovered by the Contractor pursuant to mandatory provisions of the PSC, viz. Article 16.7, entitling the Petitioner to the same. On the insistence of GOI, the amount recovered was paid to Respondent No.1 on 12.09.2025 on a without-prejudice basis and subject to adjudication of the issue through arbitration. The legitimate difference of opinion between the parties on the said issue cannot be the basis for rejection of the Application.*"

137. Even more importantly, the letter dated 12.09.2025 sent by the petitioner to MoPNG records that "*we understand that the delay in execution*

of the addendum to the PSC for extension is on account of adjustments made to GOI share of Profit Petroleum with respect to Special Additional Excise Duty ("SAED")".

138. It is, thus, clear that the petitioner was given notice to pay the amounts deducted by it from the Government of India's share of Profit Petroleum in order to neutralise the impact of the Special Additional Excise Duty. The petitioner was also conscious that the said act has impacted MoPNG's decision on the Application for extending the PSC.

139. The discussion above reveals that events that took place subsequent to the filing of the Application by the petitioner can be taken cognizance of to determine the petitioner's candidature for the grant of an extension. It is further clear that the petitioner could not have resorted to a unilateral deduction of the Government of India's share of Profit Petroleum before an adjudication under Article 16.7 of the PSC took place.

140. The two remaining aspects which find mention in the above extracted ground are — ***first***, that the petitioner has paid the said due; and ***second***, that the issue concerning this due is a "*difference of opinion*" which cannot be the basis of rejection of the application. Broadly, it is also the case of the petitioner that the utilisation of the offending act as a ground to dismiss the petitioner's Application is arbitrary and violative of Article 14 of the Constitution.

141. In light of the position of law discussed above, it be noted that the action of the petitioner found to be offensive is the unilateral deduction itself and not the subsequent treatment of the deducted Profit Petroleum being a

"*due*". Furthermore, both the Impugned Order, and the Counter Affidavit of respondent no. 2, considers the unilateral deduction of Profit Petroleum as a reason for rejecting the petitioner's Application for extension of the PSC, while being conscious of the petitioner having paid the amounts previously deducted. The act of the petitioner, belatedly, remitting the amounts it had deducted, was not found by MoPNG to rectify the defect in the petitioner's candidature and cure its mis-conduct.

142. The offending action in the instant case is material to the decision concerning the petitioner's Application seeking extension of the PSC. It concerns the conduct of a company to whom responsibility for India's natural resources is to be given. It is also immaterial that the Special Additional Excise Duty which was levied on 30.06.2022 was withdrawn by the Union of India on 02.12.2024 as liabilities under the said duty had already accrued upon the petitioner. MoPNG's decision of not treating the petitioner's subsequent payment as a dry-cleaning act cannot be impeached. That decision lies in the domain of the Ministry and the administrator concerned; the Court is not expected to enter into the shoes of the expert body.

143. It would also be rather late in the day to contend that such an act of the petitioner, if taken cognizance of by the Union of India, would lie ill of the "*transparent and defined framework*" of the Extension Policy. The gravity of the infringement, the act of the petitioner, the effect it has, and the express warning of the Union through its letters, militates against such an argument being accepted. Any applicant in their rightful mind, would expect their action of unilaterally reducing the share of Government of India to

adjust the amount due from it to the Central Excise Department, to be a consideration while determining the candidature for granting an extension of a contract concerning the exploitation of natural resources, held by the Union of India, as a trustee of the people.

144. On the touchstone of the aforenoted law, this Court is of the opinion that the act of an petitioner, seeking an extension of a contract which concerns exploitation of natural resources and public wealth, whereby, in clear violation of the express command and directions of the Union of India, unilaterally, it has deducted the share of the government in the exploitation of natural resource, to either neutralise its liability under the Excise Duty, or to, as per Article 16.7 of the PSC, maintain its economic benefits, can be considered as a ground to reject its Application under the Extension Policy.

145. The power to utilise the aforenoted as a distinct ground separate from those provided for under Clause 3 and 4 of the Extension Policy, has already been found to be vested with the Union of India.

F. REMAINING CONTENTIONS OF THE PETITIONER

(i) The Argument of Legitimate Expectation

146. Mr. Mehta's argument of legitimate expectation is two-fold—***first***, the petitioner had a legitimate expectation that its Application would be considered in terms of the Extension Policy and not *de hors* it; and ***second***, that the 5 Interim Extensions granted to the petitioner gave rise to a legitimate expectation of its Application being favorably considered.

147. Insofar as the first argument is considered, as the discussion above reveals, the petitioner like every other person in this country has a right to be treated in accordance with the applicable law. Even otherwise, the present judgement's findings are based on the applicability of the Extension Policy to the facts of the petitioner's case. In order to test the second argument, the first Interim Extension granted *vide* letter dated 05.07.2023 reads as under:

> " ***
> *2. Pending the decision on your application for extension of PSC of the subject Block and other operational issues, the Contractor is hereby permitted in the public interest, to continue petroleum operations in CB-OS/2 Block till the execution of the Addendum to PSC or for three (3) months from 30.06.2023, whichever is earlier, subject to the following conditions:*
>
> *a) This shall be purely interim measure of facilitation to continue petroleum operations pending the decision on Contract extension and signing of Addendum to PSC, and shall not be construed as the government giving effect to the extension of the PSC.*
> ***
> *c) The government shall bear no liability, whatsoever on this account, in the event of Contract is not extended beyond 29.06.2023.*"

148. The second Interim Extension granted *vide* letter dated 17.10.2023 was "*subject to the same terms and conditions as mentioned in this Ministry's letter of even number dated 05.07.2023*". Similarly, the third, fourth and fifth Interim Extensions granted *vide* letters dated 30.01.2024, 29.04.2024, and 27.06.2024 respectively, were subject to the same terms and conditions mentioned in the letter dated 05.07.2023. The said letter, as the extract reproduced above reveals, in unequivocal terms stated that the grant of the interim extension shall not be construed as the government giving effect to the extension. It was clarified in the said letter that the extensions

were merely as an interim measure, and for facilitating the continued petroleum operations, that the extensions were granted.

149. "*The doctrine of substantive legitimate expectation can be successfully invoked by individuals to claim substantive benefits or entitlements based on an existing promise or practice of a public authority.*"[36] Given the express terms of the letters themselves, the Interim Extensions, could not have reasonably allowed the petitioner to expect that their Applications were being favorably considered. An interpretation which runs contrary to what has been explicitly stated is plainly fallacious.

(i) The Issue of the Petitioner being "recommended" by the DGH

150. It is the petitioner's case that *vide* a letter dated 29.12.2021, the DGH after considering the petitioner's Application had found fault only with ONGC's conduct, and resultantly had given a recommendation to MoPNG to extend its PSC. The said letter reads as under:

> "*Sir,*
> *Production Sharing Contract (PSC) for CB/OS-2 Block was signed on 30th June 1998 and the same is due to expire on 29th June 2023. Contractor, vide letter dated 29.06.2021(Annexure-1), has applied for extension of the term of PSC under the PSC Extension Policy for Pre-NELP blocks dated 07.04.2017 for a period of 10 years beyond the existing PSC period (i.e. till 29 June 2033).*
> *2. The extension application has been duly examined at DGH in line with the PSC Extension Policy dated 07.04.2021 (Annexure-II) including Para 1, Para 3.2 and other relevant provisions under the Policy. In this context, it may be noted that Para 3.2 of the Policy stipulates that certain conditions are required to be fulfilled for consideration of PSC extension application. One of these conditions is as under.*
> ***Quote***

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[36] ***Sivanandan CT and Ors. v. High Court of Kerala and Ors.***, 2023 INSC 709, para. 44.

3.2 (g) All the statutory dues and payment due to Government should have been cleared and the contractor should not be a defaulter to the Government on any account.
Unquote
3. It is observed that the extension application submitted by the contractor does not conform to Para 3.2 (g) of the Policy as there are statutory dues on account of short paid royalty and penal royalty to the tune of INR 4,55,24,27,628 (provisional as of 30.06.2021), which has been duly notified to the Contractor from time to time by DGH. The latest notifications have been issued on 13.09.2021 and 21.09.2021 (Annexure- III). However, the Contractor is yet to pay pending dues to Gol.
4. Therefore, it is recommended that the Contractor may be directed to forthwith clear the pending statutory dues and fulfill the prescribed conditions under the said Policy for consideration of application for extension of PSC submitted by the Contractor."

151. The recommendation made by the DGH was to direct the Contractor to clear its dues payable to the Government of India. Even with the most ingenious of interpretation, this letter cannot be construed as giving a positive recommendation for the petitioner's Application. The letter merely has found a fault with the Application. There is nothing to indicate that the said fault was exhaustive, or that nothing in addition to the fault pointed out, could be attributed to the Application.

152. Additionally, there is nothing in the Extension Policy that would bind the MoPNG i.e., the parent authority with a recommendation of the expert body, that functions under the Ministry. Independent application of mind by the MoPNG is nowhere precluded. In the opinion of the Court, a further analysis of the DGH's recommendation is not merely unassailable but also welcomed.

G. WHETHER OTHER GROUNDS FOR REJECTION NEED TO BE DELVED INTO

153. Two principles of administrative and constitutional law may again be taken note of.

154. ***First***, a Court much less a Writ Court does not grant directions or orders which are futile to ensure compliance with a formality when the outcome of a decision shall remain the same. The decision of the Supreme Court in ***Canara Bank v. VK Awasthy***,[37] captures the aforenoted principle in the following words:

> "**17.** *What is known as "useless formality theory" has received consideration of this Court in M.C. Mehta v. Union of India [(1999) 6 SCC 237] . It was observed as under : (SCC pp. 245-47, paras 22-23)*
>
> *"22. Before we go into the final aspects of this contention, we would like to state that cases relating to breach of natural justice do also occur where all facts are not admitted or are not all beyond dispute. In the context of those cases there is a considerable case-law and literature as to whether relief can be refused even if the court thinks that the case of the applicant is not one of 'real substance' or that there is no substantial possibility of his success or that the result will not be different, even if natural justice is followed. See Malloch v. Aberdeen Corpn. [(1971) 2 All ER 1278 : (1971) 1 WLR 1578 (HL)] (per Lord Reid and Lord Wilberforce), Glynn v. Keele University [(1971) 2 All ER 89 : (1971) 1 WLR 487] , Cinnamond v. British Airports Authority [(1980) 2 All ER 368 (CA)] and other cases where such a view has been held. The latest addition to this view is R. v. Ealing Magistrates' Court, ex p Fannaran [(1996) 8 Admn LR 351] (Admn LR at p. 358) (see de Smith, Suppl. p. 89) (1998) where Straughton, L.J. held that there must be 'demonstrable beyond doubt' that the result would have been different. Lord Woolf in Lloyd v. McMahon [(1987) 1 All ER 1118 : 1987 AC 625 : (1987) 2 WLR 821 (CA)] (WLR at p. 862) has also not disfavoured refusal of discretion in certain cases of breach of natural justice. The New Zealand Court in McCarthy v. Grant [1959 NZLR 1014] however goes halfway when it says that (as in the case of bias), it is sufficient for the applicant to show that there is 'real likelihood — not certainty — of prejudice'. On the other hand, Garner Administrative Law (8th Edn., 1996, pp. 271-72) says that slight proof that the result would have been different is sufficient. On the other side of the argument, we have apart from Ridge v. Baldwin [1964 AC 40 : (1963) 2 All ER 66 : (1963) 2 WLR*

[37] (2005) 6 SCC 321.

935 (HL)] , Megarry, J. in John v. Rees [(1969) 2 All ER 274 : 1970 Ch 345 : (1969) 2 WLR 1294] stating that there are always 'open and shut cases' and no absolute rule of proof of prejudice can be laid down. Merits are not for the court but for the authority to consider. Ackner, J. has said that the 'useless formality theory' is a dangerous one and, however inconvenient, natural justice must be followed. His Lordship observed that 'convenience and justice are often not on speaking terms'. More recently, Lord Bingham, has deprecated the 'useless formality' theory in R. v. Chief Constable of the Thames Valley Police Forces, ex p Cotton [1990 IRLR 344] by giving six reasons. (See also his article 'Should Public Law Remedies be Discretionary?' 1991 PL, p. 64.) A detailed and emphatic criticism of the 'useless formality theory' has been made much earlier in 'Natural Justice, Substance or Shadow' by Prof. D.H. Clark of Canada (see 1975 PL, pp. 27-63) contending that Malloch [(1971) 2 All ER 1278 : (1971) 1 WLR 1578 (HL)] and Glynn [(1971) 2 All ER 89 : (1971) 1 WLR 487] were wrongly decided. Foulkes (Administrative Law, 8th Edn., 1996, p. 323), Craig (Administrative Law, 3rd Edn., p. 596) and others say that the court cannot prejudge what is to be decided by the decision-making authority. De Smith (5th Edn., 1994, paras 10.031 to 10.036) says courts have not yet committed themselves to any one view though discretion is always with the court. Wade (Administrative Law, 5th Edn., 1994, pp. 526-30) says that while futile writs may not be issued, a distinction has to be made according to the nature of the decision. Thus, in relation to cases other than those relating to admitted or indisputable facts, there is a considerable divergence of opinion whether the applicant can be compelled to prove that the outcome will be in his favour or he has to prove a case of substance or if he can prove a 'real likelihood' of success or if he is entitled to relief even if there is some remote chance of success. We may, however, point out that even in cases where the facts are not all admitted or beyond dispute, there is a considerable unanimity that the courts can, in exercise of their 'discretion', refuse certiorari, prohibition, mandamus or injunction even though natural justice is not followed. We may also state that there is yet another line of cases as in State Bank of Patiala v. S.K. Sharma [(1996) 3 SCC 364 : 1996 SCC (L&S) 717] , Rajendra Singh v. State of M.P. [(1996) 5 SCC 460] that even in relation to statutory provisions requiring notice, a distinction is to be made between cases where the provision is intended for individual benefit and where a provision is intended to protect public interest. In the former case, it can be waived while in the case of the latter, it cannot be waived.

23. We do not propose to express any opinion on the correctness or otherwise of the 'useless formality' theory and leave the matter for decision in an appropriate case, inasmuch as, in the case before us, 'admitted and indisputable' facts show that grant of a writ will be in vain as pointed out by Chinnappa Reddy, J.'""

155. ***Second***, a decision of an authority if based on several grounds, one of which is relevant, if can be supported on the basis of the valid ground, and the Court can be satisfied that the authority would have passed the order on the basis of the valid ground, the decision ought not to be interfered with. In the earlier years of our Constitutional history, Bachawat J. in most erudite and eloquent of terms had held so in ***State of Maharashtra v. Babulal Kriparam Takkamore***,[38] the material portion of which reads as under:

> "***15.*** *...The principle underlying these decisions appears to be this. An administrative or quasi-judicial order based on several grounds, all taken together, cannot be sustained if it be found that some of the grounds are non-existent or irrelevant, and there is nothing to show that the authority would have passed the order on the basis of the other relevant and existing grounds. On the other hand, an order based on several grounds some of which are found to be non-existent or irrelevant, can be sustained if the court is satisfied that the authority would have passed the order on the basis of the other relevant and existing grounds, and the exclusion of the irrelevant or non-existent grounds could not have affected the ultimate opinion or decision.*
>
> ***16.*** *Now the opinion of the State Government that the corporation was not competent to perform the duties imposed on it by or under the Act, was based on two grounds one of which is relevant and the other irrelevant. Both the grounds as also other grounds were set out in paras 1 and 2 read with the Annexures 1 and 2 of the show-cause notice dated July 21, 1965. Para 3 of the show-cause notice stated, "And whereas the grounds aforesaid jointly as well as severally appear serious enough to warrant action under Section 408(1) of the said Act". The order dated September 29, 1965 read with the notice dated July 21, 1965 shows that in the opinion of the State Government the second ground above was serious enough to warrant action under Section 408(1) and was sufficient to establish that the corporation was not competent to perform its duties under the Act. The fact that the first ground mentioned in the order is now found not to exist and is irrelevant, does not affect the order. We are reasonably certain that the State Government would have passed the order on the basis of the second ground alone. The order is, therefore, valid and cannot be set aside.*"

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[38] AIR 1967 SC 1353.

156. The stand of the respondents, the DGH and MoPNG, adequately satisfies this Court that the the MoPNG would have taken the decision of rejecting the petitioner's Application on the basis of the relevant consideration of the petitioner unilaterally deducting the Union's profit petroleum. The other grounds mentioned in the Impugned Order or taken in the Counter Affidavit, assuming are found to be irrelevant and unsustainable, would not warrant the Impugned Order being set aside or quashed. The act of the petitioner analyzed above being sufficient to deny it the extension under the Extension Policy, the remaining reasons either provided in the Counter Affidavit of the DGH or the Impugned Order also need not be gone into.

V. CONCLUSION

157. From the discussion of law and the analysis of facts made above the following conclusions are being reached:

a. The present petition is maintainable;

b. The Extension Policy and its clauses ought to be interpreted in light of the Public Trust Doctrine;

c. Upon the expiry of the timelines provided for in Clause 1 of the Extension Policy, an application seeking an extension of a Production Sharing Contract, is not automatically granted. Further, events subsequent to the making of an application for extension can be taken cognizance of by the MoPNG while considering such an application;

d. Clause 5 is not the sole reservoir of the MoPNG and the Union of India's power to reject an application seeking extension of a Production Sharing Contract. Resultantly, the conditions mentioned in the Clause 5 are not exhaustive of the grounds which can be taken by the State to reject an extension application;

e. The act of the petitioner, which is seeking an extension of a contract which concerns exploitation of natural resources and public wealth, whereby, in clear violation of the express command and directions of the Union of India, unilaterally, it has deducted the share of the government in the exploitation of natural resource, to either neutralise its liability under the Excise Duty, or to, as per Article 16.7 of the PSC, maintain its economic benefits, can be considered as a valid ground to reject its Application under the Extension Policy; and

f. The decision of the MoPNG to reject the petitioner's Application seeking the extension of the Production Sharing Contract does not deserve to be interfered with.

VI. ORDER

158. The present petition, along with all pending applications, is dismissed.

PURUSHAINDRA KUMAR KAURAV, J

JULY 22, 2026
Rao