IN THE HIGH COURT OF MADHYA PRADESH AT Indore

BEFORE

HON'BLE SHRI JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

HON'BLE SHRI DUPPALA VENKATA RAMANA

ON THE 9th OF AUGUST, 2024

WRIT PETITION No. 15161 of 2024

M/S AIREN DEVELOPERS
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:
Shri Vijayesh Atre, learned counsel for the Petitioner .

Shri Bhuwan Gautam, Govt. Advocate for the respondent/State.

ORDER

Per*: *Justice Sushrut Arvind Dharmadhikari

With Consent of the parties, heard finally at motion stage.

The petitioner has filed the present petition under Article 226 of the Constitution of India, 1950 challenging the impugned letter dated 15.05.2024 (Annexure P/1) whereby the Respondent no.3 has conveyed to the Petitioner firm that the petitioner cannot be treated as the "Original Allottee" and since its "Unit" was not in production for a period of 5 years and was not closed for a

minimum period of 2 years, therefore in terms of provisions of Para 19 (B) of the Madhya Pradesh Allotment of Industrial Land and Building to MSME's and Management Rules, 2021 (hereinafter referred to as "the Management Rules"), permission to conduct division of the subject lands in terms of Para 19(B) of the Management Rules cannot be granted.

2. The Petitioner being aggrieved of the aforesaid letter dated 15.05.2024 has prayed for followings reliefs from this Court:-

i. *issue the Writ of Mandamus declaring that the impugned Letter HAI / Softens / Aaex FH / 2024 / 1965 dated 15 May, 2024 (Exhibit P-1) issued by the Respondent No.3, is bad in law;*

ii. *declare that the petitioner firm is the original allottee and is entitled for all the rights as original allottee including approval of its proposal in terms of Para 19 (B) of the Madhya Pradesh Allotment of Industrial Land and Building to MSME's and Management Rules, 2021 for division of the subject land under Plot No.4, 5, 6, 7-A, 7-B and the additional land aggregating to 150572 sq. mtrs. 'situated at Sector-D, Industrial area, Sanwer Road, Indore; and,*

iii. *any other or further and appropriate writ order, relief or direction which this Hon'ble Court may consider appropriate in the facts and circumstances of the case in the interest of justice.*

3. The germane admitted facts of the case in brief, which are necessary to be taken note of for the disposal of the present petition are as under:-

i. Petitioner is a registered partnership firm registered as a MSME Unit which is engaged in the business of construction and related development projects. The present lis pertains to following industrial lands situated at Sector D, Industrial area, Sanwer Road, Indore (M.P.) (hereinafter

referred as subject lands):-

S.No.	Plot No.	Size in Sq. mtrs.
1.	4, 5 & 6	59294
2.	7-A	11152
3.	7-B	12082
4.	Additional land	68044
	Total	150572

ii. Aforesaid subject lands were allotted to M/s. Shri Ishar Alloys Steel Limited for the period of 99 years vide various lease deeds dated 29.12.1969, 10.11.1978, 02.12.1975 and 04.12.1986. The said company mortgaged leasehold rights of the aforesaid subject lands and availed financial assistance from various financial institutions. The Company defaulted in repayment of the loan obtained from the banks and was wound up.

iii. Respondent No.1 State granted permission to Isher Alloy to "*mortgage and assign*" its leasehold land in favour of any Bank or financial institution, vide its letter No.22/IDIC/BF/90/3377 dated 20th March, 1990, (Annexure P-4).

iv. Respondent No.1 issued Clarification No.94/IM20/BF/92/7863 dated 23rd October, 1992 (Annexure P-5) wherein while clarifying the clauses of lease deed, categorically stated that if any public financial institution wishes to transfer the properties of the lessee, the permission will be automatic and the lending institution will inform the lessor of their intention to do so; and on getting such information the lessor will take such steps and make such amendments in the name of the lessee so that

the transferee gets the same rights as the original lessee.

v. In the year 2005 the ICICI Bank i.e. one of the secured creditors initiated recovery proceedings against the said company by filing a petition before the DRT II, Mumbai. The learned DRT vide order dated 08.01.2022 floated tender for auction of the lease hold rights of the subject lands. The Petitioner firm participated in the said auction and was sole / highest bidder to the auction. Thereafter, vide order dated 02.12.2022 the Petitioner was declared as the successful bidder by the learned DRT.

vi. Entire sale consideration amounting to the tune of Rs. 75,74,37,400/- was paid by the Petitioner and on 18.01.2023 a Sale Certificate was also issued in favour of the Petitioner by the DRT Mumbai.

vii. Pursuant to the issuance of sale certificate the Petitioner requested the office of the Respondent no.3 for allotment of the subject land in favour of the Petitioner and for the execution of the lease deed. For the purpose of registration, the Respondent no.3 raised a demand of Rs. 18,06,47,972/- towards the transfer fees and other outstanding charges. The aforesaid demand was fulfilled by the Petitioner and the amount was paid by way of challans dated 19.05.2023 and 20.05.2023.

viii. That, pursuant to the receipt of the aforesaid payment the Respondent no.3 on 22.06.2023 executed 4 amended lease deeds in favour of the Petitioner. Thereafter, the Petitioner on 20.07.2023 forwarded an application to the Respondent No. 3 to consider division of the subject lands in terms of Para 19(B) of the Management Rules. On 24.07.2023, the Respondent no.3 forwarded the said application to the Respondent no.2 for its approval.

ix. The Respondent No. 3 issued another letter dated 31.07.2023. The relevant excerpt of the letter w.r.t. issue involved in the present case reads as under:-

a) In terms of Para 19(B) of the Management Rules, if the land

allotted to the original allottee is auctioned by the Bank or any Tribunal then it is necessary that the transferee company must be in production for a minimum period of 5 years and must be closed for a minimum period of 2 years.

ii. Pursuant, to the issuance of the aforesaid letter, the Petitioner firm vide letter dated 31.07.2023 and 01.08.2023 submitted representation before the Respondent No. 3 for considering the Petitioner firm as "original allottee".

iii. The Respondent No. 3 vide impugned letter dated 15.05.2024 has informed the Petitioner that the Petitioner does not fulfills the conditions prescribed under Para/Clause 19 (B) of the Management Rules as the Petitioner cannot be treated as original allotee. Furthermore, Petitioner has not remained in production for a period of 5 years and was not closed for a minimum period of 2 years and therefore, the case of the Petitioner could not be considered in light of Para/Clause 19 (B) of the Management Rules.

iv. Being aggrieved by the letter dated 15.05.2024, the present petition is filed by the Petitioner.

4. The learned counsel of the Petitioner has submitted that the impugned letter dated 15.05.2024 issued by the Respondent No. 3 is unreasonable and has been passed by misinterpreting the provisions of Para 19 (B) of the Management Rules. The land was allotted to M/s. Ishar Alloy and by way of the Sale Certificate issued by the DRT, Mumbai, the Petitioner steps into the shoes of the M/s. Ishar Alloy. The Petitioner has further contended that as per notification dated 23.10.1992 issued by Respondent No. 1 the transferee gets the same rights as the original lessee. The Petitioner has cleared the outstanding lease rent and the maintenance charges which was to be paid by the M/s. Ishar

Alloy. The said amount was paid for the period when the M/s. Ishar Alloy was not into operation. Thus, the Petitioner has stepped into the shoes of the M/s. Ishar Alloy and therefore, the petitioner is to be treated as an original allottee and his application for division of subject lands could not have been rejected on the ground that petitioner cannot be treated as original allotee and on the ground that Petitioner has not remained in production for a period of 5 years and was not closed for a minimum period of 2 years when undisputedly, M/s. Ishar Alloy has been operational for more than 5 years and has been closed for more than 2 years fulfilling the conditions of Para/Clause 19(B) of Management Rules.

5. *Per Contra*, Counsel for the Respondents has submitted that the Petitioner firm cannot be treated as an original allottee. The lease deeds are executed in favour of the Petitioner only on account of the sale certificate issued by the DRT, Mumbai. The fresh lease deeds are executed by the Respondent No. 3 treating the Petitioner as a fresh allottee and therefore, the Petitioner does not come under the purview of the original allottee.

6. Heard learned counsel for the parties and perused the record.

7. The in light of the arguments advanced by the parties, following question/issue arises for adjudication before this Court :-

> *Whether the Petitioner is liable to be treated as original allottee in terms of Clause 19 (B) of the Management Rules? If yes, then whether the petitioner is entitled to claim division of subject lands?*

8. For proper adjudication of aforesaid issues, it is apposite to deal with Clause 19 (B) of the Management Rules. Clause 19 (B) of the Rules reads as under:-

> "***Para 19 (b)—Division and transfer of land allotted to closed unit.*** *In view of proper use of the allotted plot to closed industrial units which have been in production for at least 05 years and have been closed for at least 02 years, permission shall be granted, as per eligibility, or transfer of the plot by separating it for setting up a new industry.*
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> *The conditions for separation of plots to these units in industrial area and in undeveloped land shall be as follows:-*
>
> *1. All the court cases related to the plot filed by the parent unit shall have to be withdrawn.*
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> *2. If the undeveloped land is located under the development plan area, then the use of the land in the prevailing development plan should be industrial.*
>
> *3. The area of any of the divided plot should not be less than 500 square meters and there should be an independent way to come and go in the plots. The layout of the divided plots shall be approved by the officer authorized by the state government.*
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> *4. The new units shall required to pay 100 percent of the prevailing premium as premium for allotment of land and as per rules, the annual deed rent shall be calculated on the basis of prevailing premium.*
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> ***5. Procedure to make application — The original allottee shall***

be required submit the proposal to the District Trade and Industry Center which shall be forwarded to the Directorate of Industries along with the facts by the District Trade and Industry Center. The case shall be sent by the Directorate of Industries to the State Government for acceptance. The final decision for acceptance in the case shall be taken by the State Government.

6. The development of infrastructure development/industrial park on division of undeveloped land shall be done within a time limit of 1 year from the date of in-principle approval by the original allottee. If the work is not done within the time limit, in case of proper reasons, time limit may be increased by a maximum of 1 year by the government.

7. In case of development of industrial area on undeveloped land, the development fee shall not be collected by the government. Maintenance fee may be |'x' collected from the newly allotted units by 30 the District Trade and Industry Center. The maintenance fee shall be determined by the competent authority.

8. The portion of the plot of unit on which the asset is built, before transfer of that part to the new units, the original unit shall have to present the registered sale deed, after which the lease deed may be executed in favor of the new unit.

9. The competent authority shall first issue in-principle approval on the received proposal, which shall be valid for one year. The lease deed of the new units shall be executed only after the parent unit makes full payment of all the previous dues of the department within a period of I year. The allotted new unit/units shall have to start production as per prevailing land allotment rules.

10. The responsibility to pay the dues of the State Government departments like commercial tax department, energy

department and other related departments against the parent unit shall lie on parent Unit and in this regard the no-objection certificate should be submitted to the parent unit within I year from the date of in principle approval.

11. Such units who have assigned the original lease deed to any financial institution, shall ensure that they obtain a no-objection certificate from the concerned financial institution within one year from the date of receipt of in-principle approval.

12. If the area of the land allotted to the original unit is less than 10 acres, as per approval of map, the transfer of all the divided plots and execution of lease deed shall be done to the new units within 18 months from the date of in-principle approval. If the land area allotted to the original unit is more than 10 acres then as per approval of map, the transfer and lease deed execution of all the divided plots shall be done to the new units within 2 years from the date of in-principle approval. As per above, all the vacant plots which have not been transferred by the original unit within the said time period, then such plots shall be treated as unallotted plots and the possession of the vacant plots shall be obtained by taking unilateral action by the District Trade and Industry Center. In this regard, an affidavit shall be taken from the parent unit before starting of the process or issuance of in-principle approval. In case of violation of the conditions related to division and transfer of plots, the possession of the land shall be taken over by the District Trade and Industry Center. An affidavit shall be taken before giving in- principle approval to the parent unit.

13. The allotment of the plot shall be made by the District Trade and Industry Center on the recommendation of the

> *original allottee and the lease deed of the plot shall be executed between the District Trade and Industry Center and the new allottee according to the as per the prevailing land allotment rules.*
> *14. On the approval of the map for the division of the plot on the original allotted land, the interest of the land left for infrastructure development / green belt etc. shall be calculated separately on the basis of merit considering the proper use of the land.*
> *15. Units obtaining grants shall be allowed for division and transfer of plots only on the condition that they remain in production for the stipulated period after receiving the grant as per the departmental policy/scheme."*

9. A bare perusal of the aforesaid provision reveals that the Para 19(B) deals with the division and transfer of land allotted to the closed units. The said clause permits for sub division of lease hold lands into plots of the closed industrial unit which has been into production for 5 years and has been closed for at least 2 years on an application by Original Allotee. Undisputedly, the subject lands were initially allotted to M/s. Ishar Alloy. Para 19 (B) is applicable to division and transfer of land allotted to close industrial unit. In the instant case the said lands were used by M/s. Ishar Alloy which was into operation for several years and thereafter the operation of the said unit was shut down. Hence, it is not in dispute that M/s. Ishar Alloy had already fulfilled the criteria for seeking permission for sub-division of plots as per Para 19(B) i.e. the industrial unit established by M/s. Ishar Alloy had been into production of 5 years and has been closed for at least 2 years. Even otherwise, the requirement under Para 19

(B) is with regard to the industrial unit and not of the lessee which is apparent from the language of the provision which is "*In view of proper use of the allotted plot to* ***closed industrial units which have been in production for at least 05 years and have been closed for at least 02 years, permission shall be granted***". Hence, in the considered opinion of this court, the requirement of Para 19(B) of Management Rules is with regards to the industrial unit and not the allotee/lessee and clearly it is not in dispute that the industrial unit in question has fulfilled the criteria as prescribed under Para 19(B) of Management Rules.

10. At this juncture it is pertinent to take note of notification dated 23.10.1992 issued by Respondent No.1 w.r.t. transfer of the lease hold properties by the financial institutions. The notification reads as under:-

> "*It is clarified that where the mortgage is intended to be created in favour of PPIS or MPAVN or MPFC, the permission will be, automatic Lessor, and the Lessee will not require any permission from the otherwise If the PFIS or MPAVN or MPFC are required to sublet: or transfer the 'properties of the Lessee, they will not -require any permission of the Lessor but will inform the Lessor "of their intention to do so before and after the actual sub-letting OF transfer has taken place.* ***On getting such information;' the "amendments Lessor, as the case may be, will take such steps and make amendments in the name of the Lessee etc. as may be required, so that the transferee gets the same rights as the original lessee.*** *However, in any sub-letting or transfer, the PFIS, MPAKVN-and MPFC Will take care to ensure that the dues or over dues of AKVNS on the*

Lessee are paid."

11. The aforesaid notification provides that if any public financial institution wishes to transfer the properties of the lessee, the permission will be automatic and the lending institution will inform the lessor of their intention to do so. Upon getting such information the lessor will take such steps and make such amendments in the name of the lessee so that the transferee gets the same rights as the original lessee.

12. It is also worth noting that in the present case the learned DRT II, Mumbai while issuing the Sale Certificate dt. 18.01.2023 has categorically observed as under:-

> "***The Purchaser has become absolute owner of Leasehold Rights of the Residue Period of Lease of immovable property, on the terms and conditions as specifically mentioned in Original Lease Deeds****, on 18.01.2023 on payment of entire amount of the property specified below, without payment of any Transfer Charges."*

13. Admittedly, Petitioner has also cleared the outstanding dues which were unpaid by M/s. Ishar Alloys. The Respondents demanded a sum of Rs. 2,25,33,813/- towards the lease rent and maintenance charges. The said amount was unpaid by the M/s. Ishar Alloys since the day when the company remained closed from its operation.

14. Also, pursuant, to the issuance of the sale certificate by the DRT, Mumbai the lessor i.e. the Respondents executed 4 amended lease deeds in favour of the Petitioner. In the considered opinion of this court, said amended

lease deeds cannot be considered as a fresh lease deed as the said lease deeds which have been executed by the Respondent no. 3 in favour of Petitioner replaces the original allottee i.e. M/s. Ishar Alloy for the remaining residual periods, with Petitioner herein. Thus, this court has no hesitation in holding that Petitioner firm stepped into the shoes of the M/s. Ishar Alloy by way of the orders passed by the learned DRT, Mumbai and later on by execution of the amended lease deeds by the Respondents in favour of the Petitioner. Since it is apparent that petitioner firm has merely stepped into the shoes of the M/s. Ishar Alloy with respect to subject lands, the petitioner is liable to be treated as original allotees. Therefore, we are unable to countenance the action of the Respondent no.3 in issuance of the impugned letter dated 15.05.2024 after receipt of the entire outstanding lease rent and after execution of the amended lease deeds.

15. Irrationality, illegality and procedural impropriety are three important parameters on which an administrative decision can be put to test. **Lord Diplock, L.J. in Council of Civil Service Unions Vs. Minister** for the Civil Service applied the said text as under :-

> *(i) 'Illegality' which means that the "decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it". It means that the decision-maker must keep within the scope of his legal power. Illegality means that the decision-maker has made an error of law; it represents infidelity of an official action to a statutory purpose. Such grounds as excess of jurisdiction, patent error of law, etc.*

fall under the head of "illegality".

(ii) 'Irrationality' denotes unreasonableness in the sense of Wednesbury unreasonableness.

(iii) Procedural Impropriety – The expression includes failure to observe procedural rules including the rules of natural justice or fairness wherever these are applicable.

16. This principle was followed by the Apex Court in the case of **Tata Cellular vs. Union of India** reported in **(1994) 6 SCC 651**

17. From the reasons enumerated above it is manifest that the impugned action of the Respondent no.3 is irrational, illegal and suffers from procedural impropriety. Furthermore, the impugned action of the Respondents can be tested on the doctrine of the legitimate expectation. The concept of legitimate expectation is of European origin. It is one of the fundamental Principles of ***European Community Law. (See: Durbeck v Hauptzollant Frankfurt an Main Flughafen, (1981) ECR 1095, at 1120; Mulder v. Minister Van Landbouw en Visserji, (1988) ECR 2321; Spagl v. Hauptzollant Rosenteim (1990) ECR 453***. For some more cases on legitimate expectation from European Law, ***Sedley, J.'s opinion in R. v. Maff, ex p. Hamble Fisheries, (1995) 2 All ER 714****). The statement of Lord DIPLOCK in CCSU is regarded as envisaging legitimate expectation extending to an expectation of a benefit. This may arise from-*

(i) what a person has been permitted by the concerned authority to enjoy and which he can legitimately expect to be permitted to continue to enjoy until "there has been communicated to him some rational grounds for withdrawing it on which he has been given an

opportunity to comment";

(ii) he has received assurance from the concerned authority that the benefit will not be withdrawn without giving him first an opportunity of advancing reasons for contending that it should not be withdrawn.

(iii) It may also extend to a benefit in the future which has not yet been enjoyed but has been promised.

***Lord FRASER** also observed as follows: "But even where a person claiming some benefit or privilege has no legal right to it, as a matter of private law, he may have a legitimate expectation of receiving the benefit or privilege, and, if so, the courts will protect his expectation by judicial review as a matter of public law… Legitimate or reasonable expectation may arise from an express promise given on behalf of a public authority or from the existence of a regular practice which the claimant can reasonably expect to continue."*

*Characterizing the doctrine of legitimate expectation as a valuable and developing doctrine, **BINGHAM, L.J.,** stated in the case of **R. v. Inland Revenue Commissioners, ex. p. MFK Underwriting Agents Ltd., (1990) 1 All ER 90 as under:** "If a public authority so conducts itself as to create a legitimate expectation that a certain course will be followed it would often be unfair if the authority were permitted to follow a different course to the detriment of one who entertained the expectation, particularly if he acted on it… The doctrine of legitimate expectation is rooted in fairness." **SEDLEY, J.,** ruled that even though policy change may take place from time to time, the policy maker should seek to accommodate legitimate expectations.*

***SEDLEY, J.,** has observed : "Thus it is an obligation to exercise powers fairly which permits expectations to be counterpoised to policy change, not necessarily in order to thwart it but. . . in order*

to seek a proper exception to the policy within the British Oxygen principle."

He went on to observe: "While policy is for the policy maker alone, the fairness of his or her decision not to accommodate reasonable expectations which the policy will thwart remains the court's concern...." While the court accepts ministerial freedom to formulate and to reformulate policy, 'it is equally the court's duty to protect the interest of those individuals whose expectation of different treatment has a legitimacy which in fairness out-tops the policy choice which tends to frustrate it'.

Finally, ***SEDLEY, J.,*** *has said: "Legitimate expectation is now in effect a term of art, reserved for expectations which are not only reasonable but which will be sustained by the court in the face of changes of policy; secondly, that whether this point has been reached is determined by the court, whether on ground of rationality, of legality or of fairness, of all of which the court, not the decision- maker is the arbiter."*

18. The Hon'ble Supreme Court of India in the case of **National Buildings Construction Corporation v. S. Raghunathan** reported in **AIR 1998 SC 2779** has held as under:

"*The Government and its departments, in administering the affairs of the country are expected to honour their statements of policy or intention and treat the citizens with full personal consideration without any iota of abuse of discretion. The policy statement cannot be disregarded unfairly or applied selectively. Unfairness in the form of unreasonableness is akin to violation of natural justice. It was in his context that the doctrine of 'Legitimate Expectation' was evolved which has today become a source of substantive as well as procedural rights. But claims based on 'Legitimate Expectation' have been held to require reliance on representations and resulting*

detriment to the claimant in the same way as claims based on promissory estoppel."

19. The Hon'ble Apex Court in its recent judgment of ***State of Bihar and others v/s. Shyama Nandan Mishra*** reported in 2022 SCC Online SC 554 has again reiterated the criteria for testing prima facie legitimate expectation. The Hon'ble Supreme Court has held as under:-

> ***34.*** *To understand the legal consequences arising therefrom, useful reference can be made to R. v. Inland Revenue Commissioners, ex parte M.F.K. Underwriting Agents Ltd.[9] (1989) where Lord Justice of Appeal, Thomas Bingham, while invoking fairness as a rationale for protecting legitimate expectations, expressed the following:—*
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> *"If a public authority so conducts itself as to create a legitimate expectation that a certain course will be followed it would often be unfair if the authority were permitted to follow a different course to the detriment of one who entertained the expectation, particularly if he acted on it. ... The doctrine of legitimate expectation is rooted in fairness."*
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> ***35.*** *Another facet of denial of legitimate expectations is underscored by the Court of Appeal of England and Wales in the seminal case of Coughlan[10], where the Court preferred to use abuse of power as one of the criteria for testing whether a public body could resile from a prima facie legitimate expectation. In the Court's opinion, if the government authority induced an expectation which was substantive, the upsetting of that expectation, through departure from the expected course of action in the absence of compelling public interest, would be so unfair, that it would amount to abuse of power. In the present case, the abuse of power is discernible in the State's disparate decision in encadring the +2 lecturers with the teachers of nationalized schools,*

notwithstanding the contrary representation through the 1985 notification which created the +2 lecturer posts and the 1987 advertisement under which, the respondents entered service. Such manifest departure from the projected course smacks of arbitrariness and the government action, to selectively protect the interest of the BES cadre, does not conform to rules of justice and fair play.

36. *Taking a cue from above, where the substantive legitimate expectation is not ultra vires the power of the authority and the court is in a position to protect it, the State cannot be allowed to change course and belie the legitimate expectation of the respondents. As is well known, Regularity, Predictability, Certainty and Fairness are necessary concomitants of Government's action and the Bihar government in our opinion, failed to keep to their commitment by the impugned decision, which we find was rightly interdicted by the High Court.*

20. The Apex Court has opined that the doctrine of legitimate expectation is a *'latest recruit'* to a long list of concepts fashioned by the courts for review of administrative actions. No doubt, the doctrine has an important place in the review. Under the said doctrine, a person may have reasonable or legitimate expectation of being treated in a certain way by an administrative authority even though he has no right in law to receive the benefit. In such a situation, if a decision is taken by an administrative authority adversely affecting his interests, he may have justifiable grievance in the light of the fact of continuous receipt of the benefit, legitimate expectation to receive the benefit or privilege which he has enjoyed all throughout. Such expectation may arise either from the express promise or from consistent practice which the applicant may reasonably expect to continue.

21. If the present case is examined on the anvil of principles laid down in aforesaid cases, it will be crystal clear that pursuant to the *(i) Clarification No.94/IM20/BF/92/7863 dated 23rd October, 1992 issued by Respondent No. 1 clarifying that that if any public financial institution wishes to transfer the properties of the lessee, the permission will be automatic and the lending institution will inform the lessor of their intention to do so; and on getting such information the lessor will take such steps and make such amendments in the name of the lessee so that* ***<u>the transferee gets the same rights as the original lessee</u>*** *(ii) orders passed by the learned DRT, Mumbai, (ii) Secondly, issuance of Sale Certificate observing that "****<u>The Purchaser has become absolute owner of Leasehold Rights of the Residue Period of Lease of immovable property, on the terms and conditions as specifically mentioned in Original Lease Deeds,</u>*** *(iii) Thirdly, clearance of outstanding lease rents/dues of M/s. Ishar Alloy by Petitioner to the tune of Rs.2,25,33,813/- (Annexure P-13), and (iv) Lastly, execution of amended lease deed instead of fresh lease deed,* will clearly make Petitioner understand and will make expect that the Petitioner is the original allottee. In the considered opinion of this court, now the Respondents cannot be permitted, in fairness, to not extend benefits to the petitioner of original allotee in view of the aforesaid facts and circumstances of the present case. Thus, doctrine of legitimate expectation can be pressed into service in order to hold that Petitioner is liable to be treated as original allotee.

22. In view of foregoing analysis, the petition deserves to be allowed and is hereby allowed. *Ex Consequenti*, the impugned letter dated 15.05.2024 (Annex. P/1) is hereby set aside on account of it being bad in law. Since this court has held that the petitioner is “original allotee” in terms Para 19(B) of Madhya Pradesh Allotment of Industrial Land and Building to MSME’s and Management Rules, 2021, the petitioner has all the rights as “original allotee”. Hence, the Respondents are directed to re-consider the application/proposal of the Petitioner under Para 19 (B) of Management Rules treating the petitioner as “original allotee” in light of the observations made by this Court hereinabove and grant permission to petitioner for sub division of subject lands i.e. Plot No. 4, 5, 6 7-A, 7-B and the additional land aggregating to 150572 sq. mtrs. situated at Sector D, Indusrial Area, Sanwer, Indore (M.P), subject to other applicable provisions of law. The Respondents are further directed to decide the said application/proposal of the Petitioner within a period of 30 days from the date of receipt of the certified copy of this order.

23. With the aforesaid the petition stands allowed and disposed off. No order as to cost.

(SUSHRUT ARVIND DHARMADHIKARI)
JUDGE

(DUPPALA VENKATA RAMANA)
JUDGE

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