



**Public Property to be Sold at
Market Valuation By Conducting
a Fair and Transparent Auction**



CIVIL

Public Property to be Sold at Market Valuation By Conducting a Fair and Transparent Auction

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The Hon'ble Supreme Court ("SC") in the matter of *City Montessori School v. State of Uttar Pradesh And Ors*^[i], reiterated its prior observation made in *Akhil Bhartiya Upbhokta Congress v. State of Madhya Pradesh and Ors*^[ii]. While holding the same, the SC held that auction conducted by the State would be deemed arbitrary, in the event that the value of the suit land is not in consonance with the market valuation. Further, the SC also upheld that such actions of the State ought to be fair transparent and discernible.

Table of contents

- [Facts of the Case](#)
- [Analysis by the Hon'ble Supreme Court:](#)
- [Conclusion:](#)

Facts of the Case

A division bench comprised of Justice Abhay S Oka and Justice Augustine George were presiding wherein the dispute was with respect to a land plot no.90-A/A754, measuring 2238.5 sq. ft. situated at Maha Nagar, Lucknow ("**said Plot**") owned by the State Government. As per the lease agreement dated 4th January 1962 the Hon'ble Governor of Uttar Pradesh, granted the lease of the said plot to one Gursharan Lal Srivastava. Thereafter, Gursharan Lal Srivastava vide registered sale deed dated 26th June 1962 sold his leasehold interest in the plot to Shri M.M. Batra ("**purported lessee**"). The issue essentially arose between the City Montessori School ("**said School**") and the purported lessee.

The purported lessee, in lieu to safeguard and protect his possession of the plot initiated legal proceedings. Subsequently, he obtained orders in his favour wherein the said Plot was converted from leasehold to freehold. However, in 1995 an auction notice was issued for various Nazul lands, including the said Plot, wherein the said School was the highest bidder. The bid was cancelled on the pretext that there was a failure to purchase the said Plot within the outer limit provided in the tender notice.

While cancelling the said School's bid, the State Government accepted the bid offered by the sons of the purported lessee. The said School challenged the cancellation of the auction before the Hon'ble Allahabad High Court ("**HC**"), which directed the parties to maintain the status quo and restrained the Lucknow Development Authority ("**Authority**") from executing a sale deed in favour of the purported lessee's sons.

The said School sought to be impleaded to the Suit filed by the purported lessee, but the application was denied. On 3rd February 2011, the said School then made the purported lessee as a party in its Writ Petition. Thereafter, the Civil Court had dismissed the purported lessee's Suit. Being aggrieved by the dismissal, the purported lessee appealed to the HC.

A Division Bench of the HC disposed off the appeal by instructing the Authority to promptly review the purported lessee's request to convert its leasehold rights to freehold, in accordance with the law. The HC also stated that the purported lessee could only be evicted following legal procedures. However, the purported did not alter the Trial Court's findings on the case's merits.

Following the application submitted by the purported lessee, the Special Nazul Officer converted the said Plot to freehold, provided that the lessee paid a total of Rs. 67,022.21/- (Rupees Sixty Seven Thousand Twenty Two). Consequently, a freehold deed was executed by the Governor of the State in favour of the purported lessee. Once the said School learned of the deed and the said Plot's conversion while the Writ Petition was still pending, it sought to amend the petition to include additional claims. These claims challenged the cancellation of the said School's highest bid as provided in the auction letter, questioned the conversion order favouring the purported lessee, and contested the deed executed by the purported lessee and the State Government.

In its judgment, the HC deemed the conversion from leasehold to freehold illegal, as the purported lessee had not paid the market value of the said Plot. Therefore, the HC ruled that the deed granted to the purported lessee was invalid. However, the Court did leave open the possibility of re-auctioning the said Plot. Both the said School and the purported lessee have filed appeals regarding this decision and the same was heard by the SC.

Analysis by the Hon'ble Supreme Court:

The SC observed that the argument presented by the said School to reinstate the 1995 order accepting its bid is noted, but it is important to recognize that over twenty years have elapsed since the auction. During this period, property values in Lucknow have likely risen significantly. Even if the said School's claim of illegality in cancelling its highest bid is valid, it would be

inequitable to enforce the acceptance of the bid from two decades ago. Allowing the school to purchase the property at the price offered twenty years prior would not reflect current market conditions and would be unfair, considering it is a state-owned property.

Thus, the HC's judgment, which invalidated the conversion order and the deed favouring the purported lessee, stood unchallenged.

The SC furthermore, reiterated that fairness and transparency are essential in distributing state resources. Referencing ***Akhil Bhartiya Upbhokta Congress v. State of Madhya Pradesh***^[iii], the Court stated that state benefits should not be dispensed based on the preferences of political figures or officials. Instead, such decisions must be based on a clear, transparent, and well-defined policy.

Both appeals were therefore dismissed. The validity and continuation of the lease claimed by the purported lessee and the potential for re-auctioning the said Plot remained unresolved and may be addressed through appropriate legal proceedings. However, the purported lessee cannot be evicted without due process. The State Government must determine whether a new auction is permissible under current laws and policies. The said School may apply for a refund of the bid amount, and the purported lessee may seek a refund of the amount paid for the freehold conversion. The State Government/authority is directed to process these refunds within six weeks of receiving the respective applications.

Conclusion:

In authors' opinion, in the recent pronouncement, by the SC highlights the critical importance of fairness and transparency in the allocation of State resources. The same was held by the SC in a prior case, where the Court made a pivotal statement about how state largesse should be managed.

The SC clarified that state benefits cannot be dispensed according to the arbitrary preferences of political figures or State officials. Instead, decisions regarding the distribution of state resources must be grounded in a transparent way. This ensures that every action taken is not only fair but also based on clear and consistent principles rather than personal or political whims. The present case emphasis on transparency and fairness is crucial for maintaining public trust and ensuring that state resources are used efficiently and justly. As such, any allocation of state benefits should be accompanied by a clear rationale and process, making it evident that decisions are made in the public interest and according to established guidelines.

^[i] Civil Appeal No. 8355 OF 2024.

^[ii] (2011) 5 SCC 29.

^[iii] Supra ii.