



IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
[CIRCUIT BENCH AT PORT BLAIR]

PRESENT: THE HON'BLE JUSTICE DEBANGSU BASAK

WPA/161/2025

SMT MADHABI TARUA ... PETITIONER

VS.

THE ANDAMAN AND NICOBAR ADMINISTRATION
AND OTHERS ... RESPONDENTS

For the petitioner : Mr. Md.Tabraiz
Mr. Md.Sharukh

For the respondents : Mr. V.D.Sivabalan

Heard on : February 23, 2026

Delivered on : February 23, 2026

DEBANGSU BASAK, J.

1. Petitioner is the owner of land used for non agricultural purposes.

Petitioner wishes to sell such land. Petitioner applied for permission for

transfer. Permission was negated by the order dated August 09, 2024.

Such order is under challenge in this present writ petition.

2. Petitioner seeks two other directions in this writ petition.

3. Petitioner seeks declaration that Rule 168 A (9) of the Andaman and Nicobar Islands Land Revenue and Land Reforms Rules, 1968 inserted by the notification dated January 17, 2018 is unconstitutional and should be struck down.



4. Petitioner also seeks an order directing the respondent no. 3 to forthwith grant permission for sale.

5. Learned Advocate appearing for the petitioner submits that, by a notification dated January 17, 2018, the Administration sought to introduce few amendments to the Rules of 1968. He submits that, one of the proposed amendments came up for consideration before the High Court by way of several writ petitions being WPA/43/2019, WPA/56/2019, WPA/57/2019, WPA/6016/2020, WPA/187/ 2021 and WPA/6019/2020. Such writ petitions were heard and disposed of by a judgment and order dated January 11, 2023 reported at **2023:CHC-PB:2**. He submits that, learned Single Judge held that the notification dated January 17, 2018 was without any prior publication of the draft public proposed amendment.

6. Learned Advocate appearing for the petitioner refers to **2024:CHC-PB:42 (Hon'ble Lieutenant Governor and others – versus – Smartspace Infrastructure Private Limited and Others)** and submits that, the judgment and order dated January 11, 2023 of the learned Single Judge reported at **2023:CHC-PB:2** was upheld. In particular, he draws the attention of the Court to the first issue framed in such appeal. He submits that, the Division Bench held that, the impugned notification dated January 17, 2018 was bad being vitiated by the absence of prior publication.

7. Learned Advocate appearing for the petitioner draws the attention of the Court to the order dated December 2, 2024 passed in Special Leave Petition (Civil) Diary No(s). 39593/2024 and submits that, the



Supreme Court was pleased to dismiss the Special Leave Petition preferred by the administration against ***Smartspace Infrastructure Private Limited and Others (Supra)***.

8. Learned Advocate appearing for the respondent submits that, the impugned notification dated January 17, 2018 was preceded by a prior publication and therefore, the same cannot be faulted on the ground of non-publication. In this regard, he draws the attention of the Court to the contents of the impugned notification dated January 17, 2018. He submits that, prior publication is recorded in the body of the impugned notification dated January 17, 2018.

9. Primary challenge in the writ petition is the notification dated January 17, 2018 by which, the Administration introduced amendments to the Rules of 1968.

10. By the notification dated January 17, 2018, Administration introduced various amendments to the Rules 2016. In particular, sub-rules (2) and (3) of Rule 4 (A) of the Rules of 1968 were assailed by way of several writ petitions reported at **2023:CHC-PB:2**. The learned Single Judge, therein, held as follows :-

“19....

Undisputedly, the Andaman and Nicobar Islands Administration published the notification dated 17.01.2018 relating to amendment of sub-rules (2) & (3) of Rule 4(A) without any prior publication of the draft of the proposed amendment.”

11. Impugned notification dated January 17, 2018 traces the power to introduce the amendments to the Rules of 1968 through Section



210(1) of the Andaman and Nicobar Islands Land Revenue and Land Reforms Regulation, 1966.

12. Section 210(1) of the Regulation of 1966 grants power to the Chief Commissioner and presently the Lieutenant Governor to make rules for the purpose of carrying into effect the provisions of the Regulation of 1966 after previous publication. Previous publication of the Rules for the purpose of carrying into effect the provisions of the Regulation of 1966, is therefore, *sine qua non* for the purpose of exercise of such powers by the Lieutenant Governor.

13. The notification dated January 17, 2018 seeks to introduce certain amendments to the Rules of 1968 in terms of the powers granted under Section 210 of the Regulations of 1966. One of the issues is therefore, whether or not there was a draft publication of the amendments proposed to be introduced to the Rules of 1968, by the impugned notification dated January 17, 2018.

14. Learned Single Judge, in **2023:CHC-PB:2** noticed the notification dated January 17, 2018 in the context of one of the amendments sought to be introduced by such notification. Learned Single Judge held that, the Administration published the impugned notification dated January 17, 2018 without any prior publication of the draft public proposed amendment.

15. On appeal, the Division Bench in **2024:CHC-PB:42** framed an issue as to whether absence of prior publication vitiates the impugned notification dated January 17, 2018 or not. In answering such issue, the Division Bench held that, the impugned notification dated January



17, 2018 was bad on the count of it being vitiated in the absence of prior publication of the same. It noticed that, there was a prior publication of 2017. However, it held that, the prior publication of 2017 lost its meaning since, the impugned notification dated January 17, 2018, subsumed the same.

16. Significantly, in the impugned notification dated January 17, 2018, the Lieutenant Governor while exercising his powers under Section 210 of the Regulations of 1966, proceeds to state that, the notification dated January 17, 2018 was in supersession of the notification dated July 26, 2017.

17. Once, the impugned notification dated January 17, 2018 stipulates that, the same was in supersession of the earlier notification dated July 26, 2017, then, the second notification, as held by the Division Bench, obliterates the first notification of 2017.

18. Special Leave Petition directed against 2024:CHC-PB:42 was dismissed on December 2, 2024 after noticing that, another set of Special Leave Petition challenging the same judgment of the Division Bench dated June 24, 2024 was dismissed by the Supreme Court on November 8, 2024.

19. The authorities noted above are binding on this Court. The authorities relate to the validity and legality of the impugned notification dated January 17, 2018. It decided the issue as to whether, there was a publication prior to January 17, 2018 or not in terms of Section 210 of the Regulations of 1966. It answered such issue as



against the Administration. Administration is therefore bound by such decision.

20. The same notification dated January 17, 2018 is under challenge in the present writ petition to the extent that it seeks to introduce Rule 168(A) of the Rules of 1968. One of the grounds canvassed is the lack of prior publication. By virtue of the binding nature of the authorities noted above, the impugned notification dated January 17, 2018 is quashed to the extent that it seeks to introduce Rule 168(A) of the Rules of 1968.

21. The order of rejection dated August 9, 2024 is premised upon the notification dated January 17, 2018, the same is also quashed.

22. In view of the notification dated January 17, 2018 being quashed to the extent as noted above, the authorities will now proceed to consider the application for grant of permission made by the petitioner in accordance with the law prevailing prior to the introduction of the amended Rule 168 (A) to the Rules of 1968.

23. Authorities will take a fresh decision on the application for grant of permission made by the petitioner, within a period of two weeks from the date of communication of this order.

24. **WPA/161/2025** is disposed of without any order as to costs.

(DEBANGSU BASAK, J.)