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SLP(C)No. 17776-17777 OF 2000

ITEM No.2

Court No. 4

SECTION IX
A/N MATTER

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.17776-17777/2000

(From the judgement and order dated 21/09/2000 in SCA 4938/99 and
4909/97 of The HIGH COURT OF GUJARAT AT AHMEDABAD)

GANDHINAGAR CHARITABLE TRUST & ANR.

Petitioner (s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent (s)

(With prayer for interim relief)

(With Appln(s). for exemption from filing c/c of the impugned Judgment)
(For Final Disposal)

Date : 29/08/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MRS. JUSTICE RUMA PAL
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Mr. Ashok H. Desai, Sr. Adv.
Mr. Shirish Sanjanwalla, Adv.
Mr. Rajiv Mehta.,Adv.
Mr. A.P. Medh, Adv.
Mr. R. Rahim, Adv.

For Respondent (s) Mr. Mukul Rohatgi, ASG
State of Gujarat Ms. Hemantika Wahi,Adv.
Ms. Sumita Hazarika, Adv.

Mr. R.P. Bhatt, Sr.Adv.
Ms. Anu Mohla,Adv.

UPON hearing counsel the Court made the following
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Leave granted.
Appeals stand disposed of in terms of the signed order.

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(J.S. Rawat)
Court Master

(Suneet Bala Sharma)
Court Master

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal Nos. 5996-5997 of 2001@@
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(Arising out of SLP(C) Nos.17776-17777 of 2000)

Gandhinagar Charitable Trust & Anr. ...Appellant (s)

Versus

State of Gujarat & Ors. ...Respondent(s)

O R D E R~@@
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Leave granted.

These appeals are directed against a judgment of the Gujarat High Court. The dispute relates to allotment of land in favour of Gandhinagar Charitable Trust (for short "the Trust") for the purpose of having a college in Sector-8 of Gandhi Nagar. Shri Haren Pandya approached the Gujarat High Court as a citizen of the State of Gujarat by filing an application in the nature of a public interest litigation, assailing the legality of the order of allotment of land made in favour of the Trust alleging, inter alia, that the said allotment has been made at the behest of the then Chief Minister for a price much below the market value and that the allotment has been made with uncanny haste. While the matter was pending before the High Court, there was a change in the Government and the new Government came into power on 01.04.1998. In the new Government Shri Pandya was appointed

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as the Minister of State for Home Affairs with Independent Charge. The new Government immediately decided to constitute a Sub-Committee to decide the legality of the earlier order of allotment in favour of the Trust and Shri Pandya was a Member of the that Committee. The Sub-Committee was in fact had been appointed to review many decisions of the earlier Government including the decision with regard to the allotment of land in favour of the Trust. The said Sub-Committee on 03.07.1999 submitted a report to the Government recommending cancellation of the allotment of land in favour of the the Trust. The Government ultimately accepted the said recommendation and issued an order of cancellation. The Trust assailed the legality of the said order of cancellation, on several grounds including the ground that neither the Sub-Committee nor the State Government had issued any notice to the Trust nor has the Trust been heard either by the Sub-Committee or by the State Government. The Trust also alleged that the conclusion of the Sub-Committee was based upon non-existent and irrelevant materials and, therefore, the conclusion itself of the Sub-Committee was vitiated.

Notwithstanding the fact that the Government administratively got the order of allotment in favour of the Trust cancelled, on which account the so-called public interest litigation filed at the instance of Shri Pandya ought

to have been rejected outright, the High Court considered both
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the matters together, and instead of examining the legality of the order of cancellation, focussed its attention on the legality of the original grant.

By the impugned judgment the High Court being of the opinion that the allotment itself made in favour of the Trust was improper and there has been an abuse of the power of the then Chief Minister in getting the land allotted in favour of the Trust, dismissed the application filed by the Trust against the order of cancellation and further observed that in view of the dismissal of the application filed against the cancellation, the other application which was filed as a public interest litigation must stand disposed of.

Mr. Desai, learned senior counsel appearing for the Trust raised several contentions in assailing the impugned judgment of the High Court. Mr. Rohatgi, learned Additional Solicitor General appearing for the State of Gujarat, also raised several contentions to support the ultimate conclusion of the High Court.

We are not inclined to deal with each of the contentions raised as, in our view, the moment the State Government cancelled the allotment made in favour of the Trust and the High Court was called upon to examine the correctness of the said order of cancellation, it was not necessary to go

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into the other questions in the so-called public interest litigation. In fact, the public interest litigation must be held to have become infructuous on that date. Ipso facto, the allotment made in favour of a Trust cannot be held to be vitiated even if the Chief Minister was the Managing Trustee of the Trust. But, we refrain from examining the issue in greater detail. Suffice it to say that the report of the Sub-Committee recommending the cancellation of the allotment made in favour of the Trust as well as the ultimate order of the State Government directing cancellation on the basis of the said report, cannot stand a moments scrutiny both on the ground that the allottee had not been noticed in the matter of cancellation nor had the opportunity of establishing that allegation of favouritism in the matter of getting the allotment is wholly uncalled for and also on the ground that the Sub-Committee itself has taken several non-existent and erroneous factors into consideration.

In the aforesaid premises, we set aside the impugned judgment of the High Court as well as the report of the Sub-Committee which formed the basis of the order of cancellation, and also the so called order of cancellation. Necessarily, therefore, the order of cancellation having been set aside, the order of allotment stands valid unless and
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until it is annulled by following due procedure of law. The allottee must be held to be in possession of the land in question.

These appeals stand disposed of accordingly.

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(G.B. PATTANAİK)@@
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(RUMA PAL)@@
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New Delhi,
August 29, 2001

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(BRIJESH KUMAR)@@
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