IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2019

BEFORE

THE HON'BLE MR.JUSTICE P.B. BAJANTHRI

W.P. Nos.26369 – 26370/2018 (MV)

BETWEEN:

1. Virupakshappa Saravoonda
s/o Ramappa Saravoonda
Aged about 29 years
r/a #11/7, 21st Main
22nd Cross, Vijaya Nagar
Bangalore – 581 111.

2. Dinesh Kumar
s/o Sharanabasappa Biradar
Aged about 29 years
r/a LIG 59, Shanti Nagar
MSK Miil Road
Gulbarga – 585 103. ... Petitioners

(By Ms.Jayna Kothari, Advocate)

AND:

1. Karnataka State Public
Services Commission
Udyog Souda, Daerah
Devaraj Urs Road
Near Vidhan Soudha
Begaluru – 560 001.

2. State Government of India
Transport Department
1st Floor, `A' Block, TTMC

Building, Shantinagar
Bengaluru – 560 027
Represented by the
Commissioner of Road and
Transport.

3. State Government of Karnataka
Department of Women and Child
Development and Empowerment of
Differently Abled and Senior Citizens
M S Building, Dr.B R Ambedkar Road
Bengaluru – 560 001, Represented
by its Principal Secretary.

4. Office of the State Commissioner for
Persons with Disabilities, 40, Tambuchetty
Road, Near IDBI Bank, Cox Town
Begaluru – 560 005.

5. Union of India
Through the Ministry of
Road and Transport
Sansad Marg, Gokul Nagar
Sasad Marg Area
New Delhi – 110 001. ... Respondents

(By Sri Reuben Jacob, Advocate for R1,
Sri E S Indiresh, AGA for R2 – 4,
Sri Siji Malayil, Advocate for R5)

These writ petitions are filed under Articles 226 and 227 of Constitution of India praying to direct the respondent No.2 to allow the petitioners to apply for and give the test for driving license for heavy goods vehicles and heavy passengers motor vehicles and grant the `Heavy Motor Vehicles' driving license on fulfillment of the conditions prescribed under the Motor Vehicles Act, 1988 and etc.

These petitions coming on for preliminary hearing in `B' group this day, the Court made the following:-

ORDER

In the instant petitions, petitioners have sought for the following reliefs:

A. Issue a writ in the nature of mandamus directing the respondent No.2 to allow the petitioners to apply for and give the test for driving license for heavy goods vehicles and heavy passenger motor vehicles and grant the 'heavy motor vehicles' driving license on fulfilmet of the conditions prescribed under the Motor Vehicles Act, 1988;

B. Issue a writ in the nature of mandamus to respondent No.1 to issue a corrigendum to the impugned Notification granting additional time for applications from persons with hearing impairment and to permit the petitioners to submit their applications for the post of Inspector of Motor Vehicles called for vide Notification dated 04.02.2016 produced herein as Annexure-E to E1 after obtaining the driving license for motor cycle, heavy goods vehicles and heavy passenger motor vehicles, and further direct the respondent No.1 to consider the applications of the petitioners before releasing the final list of selected candidates; and

C. Grant any other relief, which the Hon'ble Court deems fit in the circumstances of the case in the interests of justice and equity.

2. The crux of the issue is whether hearing impairment persons are entitled for driving license for heavy motor vehicle under the Motor Vehicles Act, 1988 or not?

3. In this regard, competent Authority to issue driving license for heavy motor vehicles would be jurisdictional Regional Transport Authority. Petitioners have not approached the jurisdictional Regional Transport Authority for issuance of driving license for heavy motor vehicle by making necessary application, whereas they stated to have approached the higher Authority i.e. the Commissioner for Transport, Government of Karnataka.

4. Learned counsel for the petitioners pointed out that communication dated 28.10.2016 issued by the Government of India relating to provide driving license to hearing impaired persons and further direction has been issued to the Principal Secretaries (Transport) and the Transport Commissioners. For the purpose of issuance of writ of mandamus, one must have statutory

right/legal rights. Unless and until, there is demand or representation/application in terms of the MV Act before the competent Authority, petitioners are not entitled for writ of mandamus. The Supreme Court time and again held that under what circumstances writ Court can issue writ of mandamus. Having regard to the principles laid down by the Supreme Court, petitioners have not made out a case for writ of mandamus. This Court considered elaborately the decisions of the Supreme Court in WP No.61836 of 2016 decided on 21.8.2019. The relevant paras-2 to 5 read as under:

> "2. The prayer of the petitioner is not supported by any material to seek enhancement of compensation of Rupees Five Crore per acre, pursuant to the acquisition of land bearing Survey No.127 measuring to an extent of 2 acres 20 guntas situated at Kambalipura Village, Sullebeli Hobli, Hoskote Taluk, Bengaluru Rural District. As regards granting of Mandamus, petitioner should have a legal right which is clearly laid down by the Supreme Court in the case of **Mani Subrat Jain v. State of Haryana** reported in **(1977) 1 SCC 486** held as follows:-
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> > "9. The High Court rightly dismissed the petitions. It is elementary though it is to be restated that no one can ask for a mandamus without a legal right. There

must be a judicially enforceable right as well as a legally protected right before one suffering a legal grievance can ask for a mandamus. A person can be said to be aggrieved only when a person is denied a legal right by some one who has a legal duty to do something or to abstain from doing something (See Halsbury's Laws of England 4th Ed. Vol. 1, paragraph 122; State of Haryana v. Subash Chander Marwaha & Ors. (1) Jasbhai Motibhai Desai v. Roshan Kumar Haji Bashir Ahmed & Ors. (2) and Ferris Extraordinary Legal Remedies paragraph 198."

3. In the case of ***Tirumala Tirupathi Devasthanams v. K. Jotheeswara Pillai (dead) by LRs and others*** MANU/SC/7616/2007 : ***(2007) 9 Supreme Court Cases 461,*** it has been held that:--

"9. ……The principles, on which a writ of mandamus can be issued, are well settled and we will refer to only one decision rendered in The Bihar Eastern Gangetic Fishermen Cooperative Society Ltd. v. Sipahi Singh MANU/SC/0060/1977 : AIR 1977 SC 2149, where this Court observed as under:--

"A writ of mandamus can be granted only in a case where there is a stautory duty imposed upon the officer

concerned and there is a failure on the part of that officer to discharge the statutory obligation. The chief function of a writ is to compel performance of public duties prescribed by statute and to keep subordinate tribunals and officers exercising public functions within the limits of their jurisdiction. It follows, therefore, that in order that mandamus may issue to compel the authorities to do something, it must be shown that there is a statute which imposes a legal duty and the aggrieved party has a legal right under the statute to enforce its performance."

4. The Supreme Court in the case of **SURESH CHAND GAUTHAM Vs. STATE OF UTTAR PARADESH AND OTHERS** reported in **(2016) 11 SCC 113** held as follows:-

37. In Halsbury's Laws of England, 4th Edn., vol. 1, p.111 it has been stated:

"89. Nature of mandamus- The order of mandamus is of a most extensive remedial nature, and is, in form, a command issuing from the High Court of Justice, directed to any person, corporation, or inferior tribunal,

requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. Its purpose is to remedy defects of justice and accordingly it will issue, to the end that justice may be done, in all cases where there is a specific legal right and no specific legal remedy for enforcing that right; and it may issue in cases where, although there is an alternative legal remedy yet that mode of redress is less convenient, beneficial and effectual."

38. This Court in State of Kerala V. A. Lakshmikutty, while dealing with the concept of mandamus, opined thus: (SCC p.654, para 34)

"34. ... it is well settled that a writ of mandamus is not a writ of course or a writ of right, but is, as a rule, discretionary. There must be a judicially enforceable right for the enforcement of which a mandamus will lie. The legal right to enforce the performance of a duty must be in the applicant himself. In general, therefore,

the Court will only enforce the performance of statutory duties by public bodies on application of a person who can show that he has himself a legal right to insist on such performance."

39. In Umakant Saran Vs. State of Bihar, the Court referred to its earlier decisionin Rai Shivendra Bahadur Vs. Nalanda College and observed that: (Umakanth Saran Case, SCC p.488, para 10)

"10. ... in order that mandamus may issue to compel the authorities to do something it must be shown that the statute imposes a legal duty and the aggrieved party has a legal right under the statute to enforce its performance".

40 in Sharif Ahmad v. RTA, the Court observed thus: (SCC p.9, para 14)

"14. Mr A.K.Sen, learned counsel for the appellants drew our attention to what S.A. de Smith has pointed out at p.59 of the Third Edn. Of his well known treatise 'Judicial Review of Administrative Action':

'It may describe any duty, the discharge of which involves no element of discretion or independent judgment. Since an order of mandamus will issue to compel the performance of a ministerial act, and since, moreover, wrongful refusal to carry out a ministerial duty may give rise to liability in tort, it is often of practical importance to determine whether discretion is present in the performance of a statutory function. The cases on mandamus show, however, that the presence of a minor discretionary element is not enough to deter the courts from characterizing a function as ministerial'.

We think that the Regional Transport Authority, pursuant to the order of the Appellate Tribunal, had merely to perform a ministerial duty and the minor discretionary element given to it for finding out whether the terms of the appellate order had been complied with or not is not enough to deter the courts from characterizing the function as ministerial. On the

facts and in the circumstances of this case by a writ of mandamus the said authority must be directed to perform its function."

5. The decision of Hon'ble Supreme Court in the case of ***Kolkata METROPOLITAN DEVELOPMENT AUTHORITY Vs. PRADIP KUMAR GHOSH AND OTHERS*** reported in ***(2018) 13 SCC 623*** is held as under:

18. In regard to efficacy of order dated 10.9 1993, the respondents have relied upon power to issue mandamus and the effect thereof .A reference has been made to the decisions in CAG V. K.S.Jagannathan & Anr.(1986)2SCC679 and Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust & Ors. V. V.R. Rudani. In CAG the court observed (SCC pp.692-93, para 20)

"20. There is thus no doubt that the High Courts in India exercising their jurisdiction under Article 226 have the power to issue a writ of mandamus or a writ in the nature of mandamus or to pass orders and give necessary directions where the government or a public authority has failed to exercise or has wrongly exercised the discretion

conferred upon it by a statute or a rule or a policy decision of the government or has exercised such discretion mala fide or on irrelevant considerations or by ignoring the relevant considerations and materials or in such a manner as to frustrate the object of conferring such discretion or the policy for implementing which such discretion has been conferred. In all such cases and in any other fit and proper case a High Court can, in the exercise of its jurisdiction under Article 226, issue a writ of mandamus or a writ in the nature of mandamus or pass orders and give directions to compel the performance in a proper and lawful manner of the discretion conferred upon the government or a public authority, and in a proper case, in order to prevent injustice resulting to the concerned parties, the court may itself pass an order or give directions which the government or the public authority should have passed or given had it properly and lawfully exercised its discretion."

19. *In Andi Mukta Sadguru (supra), it was held (SCC p.700, para 20)*

"20. The term "authority" used in Article 226, in the context, must receive a liberal meaning unlike the term in Article 12. Article 12 is relevant only for the purpose of enforcement of fundamental rights under Article 32. Article 226 confers power on the High Courts to issue writs for enforcement of the fundamental rights as well as non-fundamental rights. The words "any person or authority" used in Article 226 are, therefore, not to be confined only to statutory authorities and instrumentalities of the State. They may cover any other person or body performing public duty. The form of the body concerned is not very much relevant. What is relevant is the nature of the duty imposed on the body. The duty must be judged in the light of positive obligation owed by the person or authority to the affected party. No matter by what means the duty is imposed, if a positive obligation exists mandamus cannot be denied."

***20**. There is no dispute with the proposition laid down in Comptroller and AuditorGeneral of India (supra) and Andi Mukta Sadguru (supra) that mandamus*

can be issued for doing the positive act or a legal duty cast upon an authority.

***21**. In Mansukhlal Vithaldas Chauhan v. State of Gujarat (1997) 7 SCC 622 it has been observed that mandamus is a discretionary remedy under Article 226 of the Constitution to compel for a public duty which may be administrative, ministerial or statutory in nature. Statutory duty may be either directory or mandatory. 'Shall' and 'must' sometimes be interpreted as 'may'. This Court has observed: (SCC pp. 632-33 & 634, paras 22, 23 & 29)*

"22. Mandamus which is a discretionary remedy under Article 226 of the Constitution is requested to be issued, inter alia, to compel performance of public duties which may be administrative, ministerial or statutory in nature. Statutory duty may be either directory or mandatory. Statutory duties, if they are intended to be mandatory in character, are indicated by the use of the words "shall" or "must". But this is not conclusive as "shall" and "must" have, sometimes, been interpreted as "may". What is determinative of the nature of duty, whether it is obligatory, mandatory or directory, is the scheme of the statute in which the "duty" has been set out. Even if the "duty" is not set out clearly and specifically in the

statute, it may be implied as correlative to a "right".

23. In the performance of this duty, if the authority in whom the discretion is vested under the statute, does not act independently and passes an order under the instructions and orders of another authority, the Court would intervene in the matter, quash the order and issue a mandamus to that authority to exercise its own discretion.

29. It may be pointed out that this principle was also applied by Professor Wade to quasi-judicial bodies and their decisions. Relying upon the decision in R. v. Justices of London (1895) 1 QB 214. Professor Wade laid down the principle that where a public authority was given power to determine a matter, mandamus would not lie to compel it to reach some particular decision."

22*. The High Court directed interim payment to be made in accordance with law laid down by it in which it held A.P. Act 3 of 1971 to be invalid. However on appeal, in State of A.P. & Ors. v. Raja Shri V.S.K. Krishna Yachandra Bahadur Varuh Rajah of Venkatagiri & Ors. (2002) 4 SCC 660 this Court upheld the constitutionality of the said Act and further held that*

interim payments could be made only from the date of determination by the Director under section 39(1). Though the mandamus that was issued by the High Court relying upon Venkatagiri case (supra) attained finality, for its enforcement, another writ petition was filed. The Supreme Court laid down in Director of Settlements, A.P. & Ors. v. M.R. Apparao & Anr. (2002) 4 SCC 638, that no further mandamus could have been issued for release of payment in implementation of its earlier order. Once the decision on which it was based that is Venkatagiri case stood wiped off thus the mandamus became unenforceable. The Court further held that if the law which was declared invalid by the High Court is held constitutionally valid, effective and binding by the Supreme Court, then the mandamus forbearing the authorities from enforcing its provisions would become ineffective and the authorities cannot be compelled to perform a negative duty. The mandamus would not survive in favour of those parties against whom appeals were not filed. This Court examined the question whether while issuing a mandamus, the earlier judgment notwithstanding having been held to be

rendered ineffective, can still be held to be operative. This Court in Director of Settlements v. M.R. Apparao observed : (SCC p. 658, para 16)

> *"16. …In other words, the judgment of the Andhra Pradesh High Court in Venkatagiri case holding the Amendment Act to be constitutionally invalid, on being reversed by the Supreme Court on a conclusion that the said amendment is constitutionally valid, the said dictum would be valid throughout the country and for all persons, including the respondents, even though the judgment in their favour had not been assailed. It would in fact lead to an anomalous situation, if in the case of the respondents, the earlier conclusion that the Amendment Act is constitutionally invalid is allowed to operate notwithstanding the reversal of that conclusion in Venkatagiri case and only in Venkatagiri case or where the parties have never approached the Court to hold that the same is constitutionally valid. This being the position, notwithstanding the enunciation of the principle of res judicata and its applicability to the litigation between the parties at different*

stages, it is difficult for us to sustain the argument of Mr Rao that an indefeasible right has accrued to the respondents on the basis of the judgment in their favour which had not been challenged and that right could be enforced by issuance of a fresh mandamus. On the other hand, to have uniformity of the law and to have universal application of the law laid down by this Court in Venkatagiri case it would be reasonable to hold that the so-called direction in favour of the respondents became futile inasmuch as the direction was on the basis that the Amendment Act is constitutionally invalid, the moment the Supreme Court holds the Act to be constitutionally valid. We are, therefore, of the considered opinion that no indefeasible right on the respondents could be said to have accrued on account of the earlier judgment in their favour notwithstanding the reversal of the judgment of the High Court in Venkatagiri case."

***23**. This Court has laid down that the High Court erred in issuing mandamus in respect of a right which ceased to exist and was not available on the date on which mandamus had been issued afresh. In our opinion to*

enforce an order it should be effective on date mandamus is sought to be enforced. It can be interdicted by another order or by statutory intervention.

***24**. In First Land Acquisition Collector & Ors. v. Nirodhi Prakash Gangoli & Anr. (2002) 4 SCC 160 the premises in question had been requisitioned under the provisions of West Bengal Requisition and Control (Temporary Provision) Act, 1947 for accommodating students of Calcutta National Medical College, Calcutta The premises subsequently sought to be acquired by issuing notification under sections 4 and 6 of the Land Acquisition Act in 1982 and 1989 respectively. The High Court quashed the notifications. The premises stood derequisitioned in 1993. A fresh notification was issued under sections 4(1) and 17(4) of the Act in November 1994. Entire notification was questioned by filing a writ petition. In the said case Division Bench had issued a direction to hand over physical possession on 25.8.1994. This Court held that merely because possession had not been delivered pursuant to the direction of derequisition the acquisition would not become malafide. In case there existed need for*

acquisition it has to be judged independently. This Court has laid down:(SCC pp.166-67, paras 6 & 7)

> *"6. It is indeed difficult for us to uphold the conclusion of the Division Bench that acquisition is mala fide on the mere fact that physical possession had not been delivered pursuant to the earlier directions of a learned Single Judge of the Calcutta High Court dated 25-8-1994. When the Court is called upon to examine the question as to whether the acquisition is mala fide or not, what is necessary to be inquired into and found out is, whether the purpose for which the acquisition is going to be made, is a real purpose or a camouflage. By no stretch of imagination, exercise of power for acquisition can be held to be mala fide, so long as the purpose of acquisition continues and as has already been stated, there existed emergency to acquire the premises in question. The premises which were under occupation of the students of National Medical College, Calcutta, were obviously badly needed for the College and the appropriate authority having failed in their attempt earlier twice, the orders having been quashed by the High Court,*

had taken the third attempt of issuing notification under Sections 4(1) and 17(4) of the Act, such acquisition cannot be held to be mala fide and, therefore, the conclusion of the Division Bench in the impugned judgment that the acquisition is mala fide, must be set aside and we accordingly set aside the same.

7. The argument advanced on behalf of the respondents is that as the premises in question continued to be under possession of Calcutta Medical College, invocation of special powers under Section 17 was vitiated and a valuable right of the landowners to file objections under Section 5-A could not have been taken away. According to the counsel for the respondents, Section 5-A of the Act, merely gives an opportunity to the landowner to object to the acquisition within 30 days from the date of publication of the notification under Section 4, the power under Section 17 dispensing with inquiry under Section 5- A can, therefore, be invoked where there exists urgency to take immediate possession of the land, but where possession is with the acquiring authority, there cannot exist any urgency, and, therefore the exercise of that power is patently erroneous. In support of this contention, reliance was placed on the decision of this

Court in Balwant Narayan Bhagde v. M.D. Bhagwat (1976) 1 SCC 700. We are unable to accept this contention since the same proceeds on a basic misconception about the possession of the premises. The premises in question had been requisitioned under the provisions of the Requisition Act and stood released from requisition by operation of Section 10-B of the said Act, since 1993. Even though the premises stood occupied by the students of the medical college, but such occupation was neither as owner nor was lawful in the eye of the law. To effectuate lawful possession and the purpose being undoubtedly a public purpose, the State Government had been attempting ever since December 1982 and each of its attempts had failed on account of the Court's intervention. It is in this context, the legality of exercise of power under Section 17 of the notification dated 29-11-1994 is required to be adjudicated upon. In our considered opinion, having regard to the facts and circumstances narrated above, the exercise of power under Section 17 by the State Government, cannot be held to be illegal or mala fide and consequently, the impugned judgment of the Division Bench of the Calcutta High Court cannot be sustained. The learned Judges of the High Court have been totally swayed away by the fact of non-

implementation of the directions of Batabyal, J., in his order dated 25-8-1994, but that by itself would not be a ground for annulling lawful exercise of power under the provisions of the Land Acquisition Act. We, therefore, set aside the impugned judgment of the Division Bench of the Calcutta High Court and hold that the acquisition in question is not vitiated on any ground. The acquisition proceeding, therefore, is held to be in accordance with law. The appeal is allowed. There will be no order as to costs."

***25**. It was also submitted on behalf of the respondents that the acquisition proceedings contrary to court's order were a nullity. In substance, the submission is that once the derequisition has been ordered to be made in specified time, having failed to do so, continuance of requisition was unlawful. Thus the acquisition of such property could not have been made in view of the principles laid down by this Court in Ravi S. Naik v. Union of India & Manohar Lal Vs. Ugrasen. The relevant portion of Ravi S. Naik (supra) is extracted hereunder :(SCC pp.661-62, para 40)*

> *"40. We will first examine whether Bandekar and Chopdekar could be excluded from the group on the basis of*

order dated December 13, 1990, holding that they stood disqualified as members of the Goa Legislative Assembly. The said two members had filed Writ Petition No. 321 of 1990 in the Bombay High Court wherein they challenged the validity of the said order of disqualification and by order dated December 14, 1990, passed in the said writ petition the High Court had stayed the operation of the said order of disqualification dated December 13, 1990, passed by the Speaker. The effect of the stay of the operation of the order of disqualification dated December 13, 1990 was that with effect from December 14, 1990, the declaration that Bandekar and Chopdekar were disqualified from being members of Goa Legislative Assembly under order dated December 13, 1991, was not operative and on December 24, 1990, the date of the alleged split, it could not be said that they were not members of Goa Legislative Assembly. One of the reasons given by the Speaker for not giving effect to the stay order passed by the High Court on December 14, 1990, was that the said order came after the order of disqualification was issued by him. We

are unable to appreciate this reason. Since the said order was passed in a writ petition challenging the validity of the order dated December 13, 1990, passed by the Speaker it, obviously, had to come after the order of disqualification was issued by the Speaker. The other reason given by the Speaker was that Parliament had held that the Speaker's order cannot be a subject matter of court proceedings and his decision is final as far as Tenth Schedule of the Constitution is concerned. The said reason is also unsustainable in law. As to whether the order of the Speaker could be a subject matter of court proceedings and whether his decision was final were questions involving the interpretation of the provisions contained in Tenth Schedule to the Constitution. On the date of the passing of the stay order dated December 14, 1990, the said questions were pending consideration before this Court. In the absence of an authoritative pronouncement by this Court, the stay order passed by the High Court could not be ignored by the Speaker on the view that his order could not be a subject matter of court proceedings and his decision was final. It is settled law

that an order, even though interim in nature, is binding till it is set aside by a competent court and it cannot be ignored on the ground that the court which passed the order had no jurisdiction to pass the same. Moreover, the stay order was passed by the High Court which is a superior Court of Record and "in the case of a superior Court of Record, it is for the court to consider whether any matter falls within its jurisdiction or not. Unlike a court of limited jurisdiction, the Superior Court is entitled to determine for itself questions about its own jurisdiction."

***26**. This Court has observed that interim order is also binding till it is set aside. In Manohar Lal (supra) this Court observed:*

"24. In Mulraj v. Murti Raghunathji Maharaj AIR 1967 SC 1386, this Court considered the effect of action taken subsequent to passing of an interim order in its disobedience and held that any action taken in disobedience of the order passed by the Court would be illegal. Subsequent action would be a nullity.

" 25. In Surjit Singh v. Harbans Singh AIR 1966 SC 135, this Court while dealing with the similar issue held as under (SCC p. 52, para

> *"4. … In defiance of the restraint order, the alienation/assignment was made. If we were to let it go as such, it would defeat the ends of justice and the prevalent public policy. When the court intends a particular state of affairs to exist while it is in seisin of a lis, that state of affairs is not only required to be maintained, but it is presumed to exist till the court orders otherwise. The court, in these circumstances has the duty, as also the right, to treat the alienation/assignment as having not taken place at all for its purposes."*

26. In All Bengal Excise Licensees' Assn. v. Raghabendra Singh AIR 2007 SC 1386 this Court held as under: (SCC p. 387, para 28)

> *"28. … a party to the litigation cannot be allowed to take an unfair advantage by committing breach of an interim order and escape the consequences thereof. … the wrong perpetrated by the respondent contemnors in utter disregard of the order of the High Court should not be permitted to hold good."*

27. In DDA v. Skipper Construction Co. (P) Ltd. AIR 1966 SC 2005 this Court after making

reference to many of the earlier judgments held: (SCC p. 636, para 18)

> *"18. ... '... on principle that those who defy a prohibition ought not to be able to claim that the fruits of their defiance are good, and not tainted by the illegality that produced them.'"*
>
> *28. In Gurunath Manohar Pavaskar v. Nagesh Siddappa Navalgund AIR 2008 SC 901 this Court while dealing with the similar issues held that even a court in exercise of its inherent jurisdiction under Section 151 of the Code of Civil Procedure, 1908, in the event of coming to the conclusion that a breach of an order of restraint had taken place, may bring back the parties to the same position as if the order of injunction has not been violated.*

29. In view of the above, it is evident that any order passed by any authority in spite of the knowledge of the interim order of the court is of no consequence as it remains a nullity.

Accordingly, writ petitions stand dismissed reserving liberty to the petitioners to approach competent Authority.

Sd/-
JUDGE

Bkm