# IN THE HIGH COURT OF JUDICATURE AT BOMBAY
# CIVIL APPELLATE JURISDICTION

## PUBLIC INTEREST LITIGATION NO. 145 OF 2023



**Shaikh Masud Ismail Shaikh & Ors. .. Petitioners**

**Versus**

**The Union of India, Through its Secretary, Home Affairs Department & Ors. .. Respondents**

Shri Satish B. Talekar a/w Ms. Madhavi Ayyappan, Ms. Kalyani Mangave i/by Talekar and Associates for Petitioners.
Shri Devang Vyas, Additional Solicitor General a/w Shri Advait M. Sethna, Shri D. P. Singh, Ms. Niyanta Trivedi, Shri Amit Munde for Respondent no.1-UoI.
Dr. Birendra B. Saraf, Advocate General with Shri P. P. Kakade, Government Pleader with Mrs. R. A. Salunkhe, AGP, Ms. N. M. Mehra, AGP for Respondent-State.

**WITH**

## PUBLIC INTEREST LITIGATION NO. 148 OF 2023

**Mohammed Mushtaq Ahmed S/o Mohammed Yousuf & Anr. .. Petitioners**

**Versus**

**The Union of India, Through its Secretary, Home Affairs Department & Ors. .. Respondents**

Shri Y. H. Muchhala, Senior Advocate a/w Shri Sangheer Khan, Rashda Ainapore, Amaan Khan, Shri A. H. Ansari i/by Judicare Law Associates for Petitioners.
Shri Devang Vyas, Additional Solicitor General a/w Shri Advait M. Sethna, Shri D. P. Singh, Ms. Niyanta Trivedi, Shri Amit Munde for Respondent no.1-UoI.

Dr. Birendra B. Saraf, Advocate General with Shri P. P. Kakade, Government Pleader with Mrs. R. A. Salunkhe, AGP, Ms. N. M. Mehra, AGP for Respondent-State.

**WITH**
**WRIT PETITION NO. 11968 OF 2023**

**Mohammad Hisham Osmani**
**s/o Mohammad Yusuf Osmani**
**& Anr. .. Petitioners**

**Versus**

**The Union of India,**
**Ministry of Home Affairs**
**Department & Ors. .. Respondents**

Shri S. S. Kazi a/w M. N. Shaikh for Petitioners.
Shri Devang Vyas, Additional Solicitor General a/w Shri Advait M. Sethna, Shri Ashutosh Misra, Shri Sandeep Raman for Respondent-UoI.
Dr. Birendra B. Saraf, Advocate General with Shri P. P. Kakade, Government Pleader with Mrs. R. A. Salunkhe, AGP, Ms. N. M. Mehra, AGP for Respondent-State.

**RESERVED ON: 4th OCTOBER, 2023.**

**WITH**
**WRIT PETITION NO.12352 OF 2023**

**Aleemuddin Ziaddin Shaikh**
**& Ors. .. Petitioners**

**Versus**

**Union of India & Ors. .. Respondents**

**WITH**
**WRIT PETITION NO. 12358 OF 2023**

**Shaikh Sikandar Budhan & Ors. .. Petitioners**

**Versus**

**Union of India & Ors. .. Respondents**

Shri Saeed S. Shaikh with Shri M. M. Chaudhari for Petitioners.

Shri Devang Vyas, Additional Solicitor General with Shri Advaith Sethna, Shri Rangan Majumdar and Ms. Vaibhavi Chaudhary i/by Ms. Anusha P. Amin for Respondent no.1-UoI.

Shri P. P. Kakade, Government Pleader with Ms. R. A. Salunkhe, AGP for Respondents 2 to 4 – State in WP/12352/2023.

Shri P. P. Kakade, Government Pleader with Shri M. M. Pabale, AGP for Respondents 2 to 4 – State in WP/12358/2023.

**RESERVED ON: 6th OCTOBER, 2023.**

**PUBLIC INTEREST LITIGATION NO. 93 OF 2022**
**WITH**
**INTERIM APPLICATION NO. 1276 OF 2023**

Mohammed Mushtaq Ahmed S/o
Mohammed Yousuf & Ors. .. Petitioners

Versus

The Union of India & Ors. .. Respondents

**WITH**
**INTERIM APPLICATION NO. 2672 OF 2023**
**IN**
**PUBLIC INTEREST LITIGATION NO. 93 OF 2022**

Rajendra Himmatrao Janjal .. Applicant

**In the matter between**:

Mohammed Mustaq Ahmed S/o
Mohammed Yusuf & Ors. .. Petitioners
Versus
The Union of India & Ors. .. Respondents

**WITH**
**INTERIM APPLICATION NO. 17531 OF 2022**
**IN**
**PUBLIC INTEREST LITIGATION NO. 93 OF 2022**

Sanjay S/o Kisanrao Kenekar & Ors. .. Applicants

**In the matter between**:

Mohammed Mustaq Ahmed S/o
Mohammed Yusuf & Ors. .. Petitioners
Versus
The Union of India & Ors. .. Respondents

**WITH**

**WRIT PETITION NO. 3616 OF 2023**

Mukund Bhikaji Gadhe & Anr. .. Petitioners

Versus

Union of India & Ors. .. Respondents

**WITH**

**WRIT PETITION NO. 3607 OF 2023**

Inamdar Sayyed Moinoddin & Anr. .. Petitioners

Versus

Union of India & Ors. .. Respondents

**WITH**

**WRIT PETITION NO. 3294 OF 2023**

Shaikh Hussain Patel and Ors. .. Petitioners

Versus

Union of India & Ors. .. Respondents

**WITH**

**WRIT PETITION NO. 3892 OF 2023**

Sayyad Anzaruddin S/o Sayyad Viquaruddin Quadri & Ors. .. Petitioners

Versus

Union of India & Ors. .. Respondents

**WITH**

**WRIT PETITION NO. 3881 OF 2023**

Aleemuddin Ziauddin Shaikh & Ors. .. Petitioners

Versus

Union of India & Ors. .. Respondents

**WITH**

**WRIT PETITION NO. 3886 OF 2023**

Fiza Mahebub Kazi & Anr. .. Petitioners

Versus

Union of India & Ors. .. Respondents

**WITH**

**WRIT PETITION NO. 7011 OF 2023**

Syed Khalilullah @ Mujahid Hussaini & Ors. .. Petitioners

Versus

Union of India & Ors. .. Respondents

**WITH**

**WRIT PETITION NO. 6996 OF 2023**

Shaikh Sikandar Budhan & Anr. .. Petitioners

Versus

Union of India & Ors. .. Respondents

**WITH**

**WRIT PETITION NO. 6997 OF 2023**

Sarfaraz Yusuf Momin & Ors. .. Petitioners

Versus

Union of India & Ors. .. Respondents

**WITH**

**WRIT PETITION NO. 6992 OF 2023**

Shaikh Mohammed Taha Patel & Ors. .. Petitioners

Versus

Union of India & Ors. .. Respondents

**WITH**

**WRIT PETITION (STAMP) NO. 14807 OF 2023**

Ainoddin Mahemud Sawar & Ors. .. Petitioners

Versus

Union of India & Ors. .. Respondents

**WITH**

**WRIT PETITION NO. 6990 OF 2023**

Mohsin Khan Aziz Khan & Ors. .. Petitioners

Versus

Union of India & Ors. .. Respondents

**WITH**

**PUBLIC INTEREST LITIGATION NO. 173 OF 2022**

Shaikh Masud Ismail Shaikh & Ors. .. Petitioners

Versus

Union of India & Ors. .. Respondents

**WITH**

**PUBLIC INTEREST LITIGATION NO. 110 OF 2022**

Khalil S/o Saif Sayyad .. Petitioner

Versus

Union of India & Ors. .. Respondents

**WITH**

**WRIT PETITION NO. 1185 OF 2023**

**WITH**

**INTERIM APPLICATION NO. 17622 OF 2023**

**WITH**

**INTERIM APPLICATION STAMP NO. 14913 OF 2023**

Mohammad Hisham Osmani S/o
Mohammad Yusuf Osmani & Anr. .. Petitioners

Versus

Union of India & Ors. .. Respondents

**RESERVED ON : APRIL 1, 2024**

Shri Y. H. Muchhala, Senior Advocate a/w Shri Sagheer A. Khan, Shri G. D. Shaikh a/w Shri Abdul Hamid Ansari i/by Judicare Law Associates for Petitioner in PIL/93/2022 with IA/1276/2023.

Shri S.B. Talekar a/w Ms. Madhavi Ayyappan i/b Talekar and Associates for Petitioner in PIL/173/2023.

Shri Anil Anturkar, Senior Advocate a/w Shri S. S. Kazi for the Petitioner in WP/1185/2023.

Shri M. M. Chaudhari i/b. Shri Saeed S. Shaikh for Petitioner in WP/6996/2023, WP/6992/2023, WP/3607/ 2023, WP/3616 /2023, WP/3892/2023, WP/7011/2023, WP/6990/2023, WP/ 3881/2023, WP/6997/2023, WPST/14807/2023 & WP/3886/2023.

Shri Hassan Khan a/w Shri Ashwin Sawlani for the Petitioner in WP/3294/2023.

Shri Karim Pathan i/b. Shri Shoyab Shaikh a/w Shri Shane Pillai for Petitioner in PIL 110/2022.

Shri Devang Vyas, Addl. Solicitor General a/w Mrs. Savita Ganoo & Shri D. P. Singh for the Respondent No. 1- UOI.

Dr. Birendra B. Saraf, AG a/w Shri P.P. Kakade, Govt. Pleader, Shri O. A. Chandurkar, Addl. Govt. Pleader a/w Shri Vaibhav Charulwar, 'B' Panel Counsel a/w Ms. R. A. Salunkhe, AGP for the State.

Shri Pradeep Thorat a/w Ms. Aditi S. Naikare for Respondent No. 4 in PIL/93/2022 (Aurangabad Municipal Corporation).

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. & ARIF S. DOCTOR, J.**

**PRONOUNCED ON : MAY 8, 2024**

**JUDGMENT (PER : CHIEF JUSTICE)**

**(A) PRELUDE :**

**1.** The following quote from Shakespeare's Romeo and Juliet resonated throughout the hearing of this batch of writ petitions:

***"What's in a name? That which we call a rose***

***By any other name would smell as sweet."***

In these lines Juliet makes a profound observation about the nature of names and says that a name does not make something that it is; even if rose had a different name other

than "rose", the essence of the flower would not change, it would still be the same. However, the Petitioners disagree with what Shakespeare says through Juliet in his famous tragedy.

## (B) CHALLENGE:

**2.** By instituting these petitions under Article 226 of the Constitution of India, some of which are Public Interest Litigation Petitions, the Petitioners assail the validity of Notifications issued by the Government of Maharashtra changing the name of Aurangabad and Osmanabad cities to Chhatrapati Sambhajinagar and Dharashiv, respectively. Challenge in these petitions has also been made to the Notifications issued by the State Government changing the names of revenue areas or units i.e. revenue Division, District, Sub Division, Taluka and Village from Aurangabad revenue areas to Chhatrapati Sambhajinagar revenue areas and from Osmanabad revenue areas to Dharashiv revenue areas. The impugned Notification bearing No. Ganab-2715/Mantri 18/C.R.218/29 dated 24th February 2023, whereby the name of Aurangabad city has been changed to Chhatrapati Sambhajinagar city, is extracted hereinbelow:

"GENERAL ADMINISTRATION DEPARTMENT
Hutatma Rajguru Chowk, Madam Cama Marg, Mantralaya,
Mumbai 400 032, dated the 24th February 2023.

*NOTIFICATION*

*No. Ganab-2715/Mantri 18/C.R.218/29.—The Ministry of Home Affairs, Government of India vide its letter No.11/19/2022-M&G, dated 24th February, 2023, has approved the proposal of the Government of Maharashtra, for changing the name of City* ***"Aurangabad"*** *to* ***"Chhatrapati Sambhajinagar"****. The Government of Maharashtra is hereby pleased to direct that the name of the City* ***"Aurangabad"****, Taluka & District-Aurangabad, Maharashtra State shall be changed as* ***"Chhatrapati Sambhajinagar"*** *(छत्रपती संभाजीनगर), Taluka & District-Aurangabad, Maharashtra State.*

*2. The necessary changes shall be carried out in the Government records of the State by all concerned as shown in the following TABLE : —*

*TABLE*

| Devanagri (Marathi) | Devnagri (Hindi) | Roman |
|---|---|---|
| *छत्रपती संभाजीनगर* | *छत्रपती संभाजीनगर* | CHHATRAPATI SAMBHAJINAGAR |

By order and in the name of the Governor of Maharashtra,

PRAKASH INDALKAR,
Deputy Secretary to Government of Maharashtra."

The Notification bearing No.Ganab-4721/CR-73/A-29 dated 24th February 2023 changing the name of Osmanabad city to Dharashiv city is also extracted hereinbelow:

"GENERAL ADMINISTRATION DEPARTMENT
Hutatma Rajguru Chowk, Madam Cama Marg,
Mantralaya, Mumbai 400 032, dated the 24th February 2023.

*NOTIFICATION*

No. Ganab-4721/CR-73/A/29.—The Ministry of Home Affairs, Government of India *vide* its letter No.11/18/2022-M&G, dated 7th February, 2023, has approved the proposal of the Government of Maharashtra, for changing the name of City **"Osmanabad"** to **"Dharashiv"**. The Government of Maharashtra is hereby pleased to direct that the name of the City **"Osmanabad"**, Taluka & District Osmanabad, Maharashtra State shall be changed as **"Dharashiv" (धाराशिव)**, Taluka & District Osmanabad, Maharashtra State.

2. The necessary changes shall be carried out in the Government records of the State by all concerned as shown in the following TABLE

TABLE

| Devanagri (Marathi) | Devnagri (Hindi) | Roman |
|---|---|---|
| धाराशिव | धाराशिव | DHARASHIV |

By order and in the name of the Governor of Maharashtra,

PRAKASH INDALKAR,
Deputy Secretary to Government of Maharashtra"

We also extract hereinbelow the impugned Notification No.TLC 2 CR-3 M-1 dated 15th September 2023 whereby the name of Aurangabad Division, District, Sub Division, Taluka and Village (all revenue arears or units) has been changed to Chhatrapati Sambhajinagar Division, District, Sub Division, Taluka and Village:

"REVENUE AND FORESTS DEPARTMENT
Mantralaya, Madam Cama Marg, Hutatma Rajguru Chowk,
Mumbai, dated the 15th September, 2023

*NOTIFICATION*

MAHARASHTRA LAND REVENUE CODE, 1966.

No. TLC 2 CR-3 M- 1 — In exercise of the powers conferred by clause (*vi*) of sub-section (*4* of section 7 of the Maharashtra Land Revenue Code, Mah. XLI of and of all other powers enabling it in that behalf, the Government of Maharashtra after previous publication as required by sub-section (*7* of the said section 7 and having considered the objections and suggestions thereto, hereby alters the names of the revenue areas specified in column (# of the Schedule appended hereunder and renames them as mentioned against each of them in column (# of the said Schedule.

*Schedule*

| (1) | (2) |
|---|---|
| Aurangabad Division | Chhatrapati Sambhajinagar Division |
| Aurangabad District | Chhatrapati Sambhajinagar District |
| Aurangabad Sub-Division | Chhatrapati Sambhajinagar Sub-Division |
| Aurangabad Taluka | Chhatrapati Sambhajinagar Taluka |
| Aurangabad Village | Chhatrapati Sambhajinagar Village |

2. Any reference, in any law, instrument or other document, to the revenue areas specified in column (1) of the Schedule aforesaid (as they existed immediately before the publication of this notification in the

*Maharashtra Government Gazette*) shall, unless the context requires otherwise, be deemed to be a reference to the revenue areas as renamed in column (2) of the said Schedule.

By order and in the name of the
Governor of Maharashtra,

SANTOSH V. GAWDE,
Deputy Secretary to Government.

The Notification bearing No.TLC 2023/CR-37/M-10 dated 15th September 2023 issued by the State Government which is also under challenge herein whereby name of Osmanabad District, Sub Division, Taluka and Village has been changed to Dharashiv District, Sub Division, Taluka and Village is also quoted hereunder:

"REVENUE AND FORESTS DEPARTMENT
Mantralaya, Madam Cama Marg, Hutatma Rajguru Chowk,
Mumbai 400 032, dated the 15th September, 2023.

*NOTIFICATION*

MAHARASHTRA LAND REVENUE CODE,1966.

No. TLC. 2023/CR-37/M-10.— In exercise of the powers conferred by clause (*vi*) of sub-section (*1*) of section 4 of the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966) and of all other powers enabling it in that behalf, the Government of Maharashtra after previous publication as required by sub-section (*4*) of the said section 4 and having considered the objections and suggestions thereto, hereby alters the names of the revenue areas specified in column (1) of the Schedule appended hereunder and renames them as mentioned against each of them in column (2) of the said Schedule.

*Schedule*

| (1) | (2) |
|---|---|
| Osmanabad District<br>Osmanabad Sub-Division<br>Osmanabad Taluka<br>Osmanabad Village | Dharashiv District<br>Dharashiv Sub-Division<br>Dharashiv Taluka<br>Dharashiv Village |

2. Any reference, in any law, instrument or other document, to the revenue areas specified in column (1) of the Schedule aforesaid (as they existed immediately before the publication of this notification in the *Maharashtra Government Gazette*) shall, unless the context requires otherwise, be deemed to be a reference to the revenue areas as renamed in column (2) of the said Schedule.

By order and in the name of the Governor of Maharashtra,

SANTOSH V. GAWDE,
Deputy Secretary to Government."

## (C) FACTS:

**3.** Prior to impugned notifications, earlier as well an attempt was made by the State Government to change the name of Aurangabad city to Sambhajinagar city and also to change the names of revenue units. Aurangabad Municipal Corporation passed a resolution on 19th June 1995 recommending to change the name of Aurangabad city to Sambhajinagar city. The State Government issued a draft notification under section 3(4) of the Bombay Provincial Municipal Corporations Act, 1949 (hereinafter referred to as the **Act of 1949**) on 9th November 1995 inviting

objections and suggestions with respect to the said draft for the purpose of issuing a Notification under section 3(2) of the Act of 1949 read with Section 21 of the Maharashtra General Clauses Act 1904 (hereinafter referred to as the **Act of 1904**). The draft Notification was issued inviting objections to the proposal to alter the name of city known by the name "city of Aurangabad" and rename it to be "City of Sambhajinagar".

**4.** Another Notification was issued on 9th November 1995 by the State Government in Revenue and Forest Department under Section 4(4) of the Maharashtra Land Revenue Code, 1966 (hereinafter referred to as the **MLRC**) inviting objections and suggestions to alter the name of revenue areas from Aurangabad Division, District, Sub Division, Taluka and Village to Marathwada Division, Sambhajinagar District, Sambhajinagar Sub Division, Sambhajinagar Taluka and Sambhajinagar village, respectively.

**5.** The said Notification dated 9th November 1995 was challenged by invoking the jurisdiction of this Court by filing Writ Petition No.5565 of 1995 and also in Writ Petition No.5566 of 1995 and various other petitions. The said Writ Petitions were

dismissed by this Court by means of judgment and order dated 8th December 1995. The judgment and order dated 8th December 1995 was further challenged by filing an SLP Nos.941-942 of 1996 before the Hon'ble Supreme Court wherein leave to appeal was granted on 29th January 1996, however, the State Government vide its Notification dated 6th September 2001 rescinded the Notification dated 9th November 1995 in respect of change of name of Aurangabad revenue units. By another Notification dated 3rd October 2001 the State Government rescinded the Notification dated 9th November 1995 which was issued for changing the name of city of Aurangabad.

**6.** On issuance of Notifications dated 6th November 2001 and 3rd October 2001 by the State Government, the aforementioned SLPs, which were converted into Civil Appeal Nos.3513-3514 of 1996, were dismissed being rendered infructuous. This is how the first round of the attempt by the State to change the name of Aurangabad city and revenue units aborted.

**7.** On 4th March 2020 the Divisional Commissioner Aurangabad (Revenue Branch) submitted a report to the State Government regarding renaming of the city of Aurangabad as

Sambhajinagar. In the said letter the resolutions dated 19th June 1995 and 14th January 2011 adopted by the Aurangabad Municipal Corporation for renaming the city were mentioned along with no-objection from the post office of Aurangabad city and no-objection from the head office of the Railways Department in Aurangabad city. The said report also mentioned that there was a demand from certain quarters for change of name, that Aurangabad is a historic city and Chhatrapati Sambhaji Maharaj has contributed a lot to the State of Maharashtra and hence the name of the city be changed. It was also reported that it will be appropriate to rename the city in the name of Chhatrapati Sambhaji Maharaj and that there is no city in the State of Maharashtra in the name of Chhatrapati Sambhaji Maharaj. The report submitted by the Divisional Commissioner also stated that since it is a policy decision of the Government, it is recommended that the appropriate decision be taken at the level of the Government.

**8.** A cabinet decision is said to have been taken on 16th July 2022 whereby the Cabinet has approved the proposal regarding renaming of the cities of Aurangabad and Osmanabad. The Cabinet also decided that the proposal shall be sent to the

Central Government and thereafter the name of the Division, District, Taluka as well as the Municipal Corporation and the Municipality will be changed accordingly. The Cabinet also suggested that the proceedings in this regard will be carried out separately by the Revenue and Forest Department and the Urban Development Department, as per Rules.

**9.** It appears that the Ministry of Home Affairs of the Government of India vide its letter dated 7th February 2023 has approved the proposal for changing the name of Osmanabad city to Dharashiv. Similarly, the Ministry of Home Affairs, Government of India, vide letter dated 24th February 2023 has approved the proposal of the State Government for changing the name of Aurangabad to Chhatrapati Sambhajinagar city and accordingly, two separate Notifications have been issued on 24th February 2023 by the State Government notifying that the name of city of Aurangabad is changed to Chhatrapati Sambhajinagar city and that of Osmanabad city to Dharashiv city. These are the final Notifications issued on 24th February 2023 which are under challenge in these petitions.

**10.** So far as change of name of revenue areas or units is

concerned a draft Notification was issued on 24th February 2023 under Section 4(4) of the MLRC inviting objections and suggestions to the proposed alteration in the name of revenue areas from Aurangabad Division, District, Sub Division, Taluka and Village to Chhatrapati Sambhajinagar Division, District, Sub Division, Taluka and Village. Similarly, a draft Notification was issued on the same day i.e. on 24th February 2023 inviting objections to the proposal to alter the name of revenue areas of Osmanabad District, Sub Division, Taluka and Village to Dharashiv District, Sub Division, Taluka and Village. After receiving the objections and suggestions as required by the aforementioned draft Notifications dated 24th February 2023, two separate final Notifications, both on 15th September 2023, have been issued by the State Government whereby the name of Aurangabad Division, District, Sub Division, Taluka and Village has been changed to Chhatrapati Sambhajinagar Division, District, Sub Division, Taluka and Village and the name of Osmanabad District, Sub Division, Taluka and Village has been changed to Dharashiv District, Sub Division, Taluka and Village. It is these two Notifications dated 15th September 2023 altering the names of revenue areas or units which have also been

challenged in these petitions.

**11.** Thus, the grievance raised in these writ petitions relates to change of name of two cities, namely Aurangabad and Osmanabad in the State of Maharashtra and also in relation to the change of name of revenue units or areas which before the impugned notifications were known as Aurangabad and Osmanabad revenue areas.

## (D) RIVAL CONTENTIONS ON BEHALF OF THE PARTIES:

**12.** Though several submissions have been made on behalf of the Petitioners as also on behalf of the Respondents taking the Court to historical, social and cultural background and perspective in which these two places were founded and came to be known by a particular name, however, we do not find it appropriate to judicially scrutinize such submissions for the reason that in our view, challenge to any action of the State has to be confined to legal and justiciable basis and not emotive grounds. There is yet another reason for the Court to observe that such emotive arguments need not be gone into by the Court to examine the impugned action on the part of the State Government in changing the names of the cities and revenue

areas and the reason is that there can always be two or more perspectives from historical, sociological and cultural point of view in these matters and it is difficult for the Court to arrive at any legal conclusion in absence of any judicially manageable standards available to the Court to adjudicate such aspects.

## (D1) SUBMISSIONS BY THE PETITIONERS:

**13.** Keeping the aforesaid in mind we now proceed to note the submissions made and the grounds taken by the Petitioners for challenging the change of name of cities.

**14.** Shri Y. H. Muchhala, learned Senior Advocate representing some of the Petitioners, at the very outset, has submitted that the Petitioners are not seeking any historical verdict in respect of the two rival Kings Viz. Aurangzeb and Chhatrapati Sambhaji Maharaj who further stated that the petitions have not even filed to justify/glorify the acts of Aurangzeb, King of the Day and in whose name Aurangabad city has been known for more than 350 years and that the people of the region have accepted the name of city of Aurangabad for last about 350 years however, the decision impugned in these petitions reflect an attempt to create polarization and division in the civil society by forcing them to

remember the past which is violating of Articles 14, 21 and 29 of the Constitution of India and the basic constitutional values and morality touching upon the value of fraternity in the society.

**15.** It has further been argued by Shri Mucchala that the names of the city is connected with the identity of the inhabitants which reinforces the sense of belonging and continuity and as such the impugned Notifications are an attempt to erase the sense of belonging of the inhabitants of Aurangabad city. He submits that the impugned action, thus, undermines the identity of the residents of the area which is violative of Article 21 of the Constitution of India. He has also argued that the provisions of Section 4(1)(iv) and 4(3) of MLRC have been violated and even assuming that the said provisions do not apply, the basic constitutional value of social justice requires that the principles underlying the procedure prescribed under Section 4(1)(vi) and 4(3) should have been followed.

**16.** Shri Mucchala, learned Senior Advocate has stated that the issue of changing the name of Aurangabad to Chhatrapati Sambhajinagar is justiciable as adjudication of such an issue involves fundamental right of individuals as well as group rights

of religious minority. He has further stated that no public interest will be served by changing the name of Aurangabad and every action of the State must be in public interest and since the impugned decision of the State Government in changing the name of the city does not farther any public interest, it is not tenable. He has also argued that the State Government has failed to produce any material to establish as to what necessitated the Government to take impugned action after such an attempt was aborted earlier. It is further his argument that the shelter taken by the State Government to the Central Government Notification dated 11th September 1953 which is revised in the year 2004 is not available to the State Government for the reason that it is an executive/administrative instruction and, thus, does not have any statutory force and accordingly, such administrative instructions cannot override statutory provisions of MLRC. His submission further is that the impugned action of the State Government has been taken only to gain political mileage and that such action cannot sustain on the touchstone of the law laid down by the Hon'ble Supreme Court in the case of ***Ashwini Kumar Upadhyay Vs. Union of India & Ors.***[1]

[1] **2023 SCC OnLine SC 207**

**17.** Drawing our attention to the judgment of the division bench of this Court in the case of ***Mohd. Mustaq Ahemad Vs. State of Maharashtra[2],*** it has been argued by Shri Mucchala that in the said case it has been held that even for renaming of city, the exercise as contemplated in Section 4 of MLRC has to be followed and since in the instant case no such exercise was undertaken so far renaming of cities are concerned, hence, the impugned Notifications renaming the cities are bad in law. He has also relied on the judgments of this Court in the case of ***Balasaheb Sahebrao Bodkhe Vs. State of Maharshtra[3]***, ***Prashant Babusaheb Ghiramkar Vs. State of Maharashtra & Ors.[4]*** and ***Dr. Avinash Ramkrsihan Kashiwar & Ors. Vs. State of Maharashtra & Ors.[5]***

**18.** To emphasize that every State action should be within the framework of constitutional morality and values, Shri Mucchala has placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***Justice K. S. Puttaswamy (Retd) & Anr. Vs. Union of India & Ors.[6]***, ***S.R. Bommai Vs. Union of***

[2] **1996(1) Mh.L.J. 589**
[3] **2016 SCC OnLine BOM 5216**
[4] **2013 (6) Mh.L.J. 703**
[5] **2015(5) Mh.L.J. 830**
[6] **(2017) 10 SCC 1**

***India***[7], ***Lok Prahari v. State of U.P.***[8]. He has also emphasized that every State action should be in public interest and no such action of the State can be approved if it puts the State exchequer to financial hardship. It is on the aforesaid grounds that Shri Mucchala has urged that the impugned decision of the State Government renaming the cities is illegal and against the very essence of the principle of equality as envisaged, proclaimed and mandated by the Constitution of India.

**19.** Shri S. B. Talekar, learned Counsel appearing for some of the Petitioners has argued that the issue regarding renaming of Osmanabad cannot be brushed aside by terming it to be a political question lacking judicially discoverable and manageable standards and therefore being non-justiciable. He has also argued that the impugned decision is not in conformity with the principles of constitutional governance and constitutional morality and such action is subject to judicial review by this Court under Article 226 of the Constitution of India. It has also been submitted by Shri Talekar that the very basis of decision pertaining to renaming of Aurangabad and Osmanabad is an

[7] **(1994) 3 SCC 1**
[8] **(2018) 6 SCC 1**

outcome of the political philosophy of the ruling party in power and such decisions are in fact calculated attempts to wipe out reminiscences and relics of Muslim rule from the public mind as well as history and that every Government action, whether political or administrative, are to be aimed essentially governance of the State as per constitutional principles including secularism. He has also placed reliance on ***Ashwini Kumar Upadhyay (supra)*** and submitted that the Hon'ble Supreme Court in the said case emphasized on the secular and federal character of the Constitution and observed that the governance must conform to rule of law, secularism and constitutionalism of which Article 14 stands out as the guarantee of both equality and fairness in the State's action.

**20.** Shri Talekar has also argued that the impugned decision of the State Government is violative of composite culture and heritage which is one of the facets of Article 21 and that the decision of the State Government is based on extraneous considerations and political reasons which are absolutely irrelevant basis for taking such decision. Shri Talekar has further argued that the impugned decision suffers from *mala fides* as the attending circumstances which precipitated the impugned

decision lead to a conclusion that such decisions are nothing but an outcome of political agenda followed by the political party in power.

**21.** Shri Talekar has also raised an issue of non compliance of procedure as prescribed under Section 4 of the MLRC. He also took a ground of violation of Article 14 stating that the impugned decision is not only arbitrary but is discriminatory inasmuch as if the objective of the Government is to restore the original names of the cities, a uniform policy ought to have been adopted. According to him, since the original name of the Aurangabad was Khadki, hence the said name ought to have been restored.

**22.** He has also argued that the instructions issued by the Central Government which are said to have been followed in the instant case has to be read into Section 4 of the MLRC and since so far as the name of city is concerned, the procedure as prescribed under Section 4 of the MLRC has admittedly not been followed, such non compliance of the prescribed procedure renders the impugned decision a nullity. He has also stated that in terms of the provisions of Section of 4(1)(vi) of MLRC naming of any revenue are can be altered only if its limits are also

altered and since in this case limits have not been altered, as such, change of name was not permissible in terms of Section 4(1)(vi) of MLRC.

**23.** Shri Talekar has also urged that the judgment of the division bench of this Court in the case of ***Mohd. Mustaq Ahemad (supra)*** has not correctly interpreted Section 4(1)(vi) of the MLRC hence, the same needs to be revisited and reviewed on the ground, *inter alia,* that challenge in ***Mohd. Mustaq Ahemad (supra)*** was to a draft Notification whereas challenge in these petitions is to the final Notifications and further that the objections filed to the draft Notifications have not been considered at all by the State Government in the present case. A re-look into the judgment in the case of ***Mohd. Mustaq Ahemad (supra)*** has been sought by Shri Talekar also on the ground that the points of law which have arisen in the instant case were not there when ***Mohd. Mustaq Ahemad (supra)*** was decided and also that the policy of the State Government for changing the names of places was not an issue for the Court in ***Mohd. Mustaq Ahemad (supra)***. Shri Talekar has drawn our attention to the definition clause contained in Section 2(43) of the MLRC, according to which "village" includes a town or city

and all the land belonging to a village, town or city. Shri Talekar has stated that since the said definition of the expression "village" includes a town or city, hence the provisions of Section 4 of MLRC are applicable for change of name of even cities with full force and since in the instant case so far as changing the names of cities is concerned, the said provision has admittedly not been followed, therefore, the impugned decision is illegal.

**24.** Shri Anil Anturkar, learned Senior Advocate appearing on behalf of the Petitioners has argued that the issue in the instant case is not related to the decision rather the decision making process. In his submission, he has stated that the guidelines issued by the Central Government for change of name of city, resolution passed by the Legislative Assembly of the State Government and also by the Legislative Council and the one passed by the Aurangabad Municipal Corporation and the No-Objection issued by the Central Government, are completely irrelevant to the issue. According to Shri Anturkar, the real issue are non compliance of the provisions contained in Section 4(1)(iv) of the MLRC and the definition of the phrase "village" occurring in Section 2(43) of the MLRC and Section 24 of the General Clauses Act.

**25.** He has further argued that the draft inviting objections issued by the Revenue and Forest Department included a proposal for change of name of Aurangabad city as well; and it is to be construed as such for the simple reason that the word "village" under Section 2(43) of the MLRC includes the city as well. His submission is that, however, without waiting for the decision on the objections in relation to the proposed alteration of name of the city, the Department of General Administration of the Government of Maharashtra issued final Notification changing the name of Aurangabad city to Chhatrapati Sambhajinagar which is in complete contravention of Section 4(4) of the MLRC for the reason that Section 24 of the General Clauses Act has not been complied with.

**26.** Shri Anturkar has urged that the Notification issued by the Revenue and Forest Department uses the word "village" whereas the Notification issued by the General Administration Department uses the word "city" however, such use of these words is completely irrelevant for the reason that the word "village" includes "city" in terms of Section 2(43) of the MLRC and also it is paradoxical to note that the General Administration Department took a decision on 24th February 2023 to change the

name of Aurangabad city whereas it was still expected by Department of Revenue and Forest to consider the objections pursuant to the draft Notification. Submission further, as made by Shri Anturkar, is that if any name of any particular city is included in other statutes, such inclusion alleviates status of such city to be statutory in nature qua the other legislations or statutes and such status cannot be changed by virtue of an executive action.

**27.** Citing an example, Shri Anturkar says that because of the impugned Notifications, mention of the name of Aurangabad in National Law University Act or Maharashtra Ren Control Act will not get changed to Chhatrapati Sambhajinagar without any corresponding amendment in these two enactments. In this regard he has cited the judgments in the case of ***M.G.Pandke Vs. Municipal Council Hinganghat, District-Wardha***[9] and also ***Shikshan Mandal & Ors. Vs. State of Maharashtra & Ors.***[10]

**28.** Drawing our attention to the judgment in the case of ***Mohd. Mustaq Ahemad (supra)*** it has further been argued by Shri Anturkar that even alteration in the name under the

[9] ***(1993) (SUPPL.)(1) SCC 708***
[10] ***(2012) 2 Mh.L.J. 948***

provisions of Section 4 (1)(vi) of MLRC will be attracted only when amalgamation, division, abolition or constitution of a revenue area takes place. He submits that Section 4(1)(vi) will be applicable only when there is alteration in the boundaries of such revenue area. He also emphasized that the judgment in the case of ***Mohd. Mustaq Ahemad (supra)*** requires a relook. According to him occurrence of the word "such" at three places in section 4(1)(vi) of MLRC makes it clear that Section 4(1)(vi) will be applicable only if there is alteration in the limits of such revenue area. His further submission is that any power vested in an authority has to be exercised only in public interest and unless in the instant case it is shown that impugned decision has been taken in public interest, the powers so exercised by the State Government cannot be justified.

**29.** On behalf of certain other Petitioners, it has also been argued that the principles and guidelines laid in the Notification of the Central Government, dated 11th September 1953 have clearly been ignored by the State Government while taking the impugned decision inasmuch as that the said guidelines provide, *inter alia*, that unless there is some very special reason it is not desirable to change a name which people have got used to. It

has further been argued that as per the said guidelines, the names of the villages etc. having historic connection should not be changed as far as possible and though Aurangabad is a historic city, in violation of the said guidelines the impugned decision has been taken.

**30.** Various other grounds have been urged by the Petitioners which have their roots in discussion about the history, sociology and culture of the region.

**31.** Another ground taken by the Petitioners to impeach the impugned decision is that the resolution said to have been passed by the Cabinet on 16th July 2002 cannot be said to be decision of the Cabinet in view of the provisions contained in Article 164(1A) of the Constitution of India which mandates that total number of Ministers including Chief Minister in the Council of Ministers shall not exceed 15% of the total Members of Legislative Assembly provided that the number of Ministers including Chief Minister of the State shall not be less than twelve. Submission is that since, admittedly, the decision is taken by only two members of the Cabinet and hence any decision by a Cabinet comprising of only two members is not permissible in view of the mandate of Article 164(1)(A) of the

Constitution of India and thus any resolution passed by two Ministers, cannot be said to be a resolution of the Cabinet.

**32.** Contending the aforesaid grounds, it has been urged on behalf of the Petitioners that the State has utterly failed to give any good reason which can sustain the impugned decision and hence the Writ Petitions deserve to be allowed.

## (D2) SUBMISSIONS ON BEHALF OF THE STATE-RESPONDENTS:

**33.** Opposing the Writ Petitions, Dr. Birendra Saraf, learned Advocate General of State of Maharashtra has submitted that the ground based on the provisions of Section 2(43) of the MLRC and non-compliance of Section 4 of the said Act is based on complete misreading of the said provisions. He has stated that so far as the altering the name of a city is concerned, Section 4 of the MLRC does not have any application whatsoever and accordingly, no draft Notification was issued under Section 4(4) of the MLRC inviting objections and suggestions for the proposed renaming of the cities of Aurangabad and Osmanabad to the cities of Chhatrapati Sambhajinagar and Dharashiv. He has drawn our attention to Section 2(43) of MLRC which falls in the definition clause of the Act and has submitted that the said

definition clause begins with the phrase **"in this context unless otherwise requires".** According to learned Advocate General, therefore, inclusion of "city" or "town" in the phrase "village" as it occurs in Section 2(43), will be subject to the context in which it is to be applied.

**34.** He has argued that heading of Section 4 of the MLRC is **"Constitution of Revenue Areas"** and accordingly, it provides for constitution of revenue areas in pyramidical structure such as (i) a revenue division, which comprises of districts, (2) a district, which comprises of sub divisions, (3) a sub division which comprises of Talukas, (4) a taluka which comprises of villages, (5) a village which comprises of local areas, and (5) a local area.

**35.** According to Dr. Saraf, Section 4 of the MLRC does not provide for constitution of a city; it rather provides for constitution of revenue area and hence so far as application of the definition of the word "village" occurring in Section 2(43) of the MLRC qua constitution of revenue areas under Section 4 is concerned, the context i.e. constitution of revenue areas does not require the "city" to be included in the definition of the word "village".

**36.** It has, been argued further by Dr. Saraf that Section 4(1)(vi) of MLRC provides for not only alteration of the limits of revenue areas by amalgamation, division or in any other manner or abolition of any such area, but also to name such revenue area and even alter the name of such area. Thus, in his submission, Section 4 does not have any application so far as naming or renaming of a city or a town is concerned. He has also stated that Sub Section 3 of Section 4 clearly provides that revenue areas existing at the commencement of MLRC shall continue under the names they bear unless otherwise altered under Section 4. Thus, his submission is that the entire scheme of Section 4 will have application only in case of naming or renaming of the revenue areas such as division, sub division, taluka, village or a local area and not for renaming of a city or a town.

**37.** He has also argued that as per Section 4, the village or a local area constituting a village is the smallest unit of revenue areas and it is implicit in section 4 that a district shall be smaller than a division, a sub division shall be smaller than a district, a taluka shall be smaller than a sub division, and village shall be

smaller than a taluka. Keeping this aspect in mind, according to Dr. Saraf, inclusion of the city or town within the phrase "village" in terms of Section 2(43) of the MLRC is not borne out in relation to its application to any procedure undertaken under Section 4 of the MLRC.

**38.** He has stated that a city is entirely a distinct concept and that it is a concept of urban local self-governance as contemplated under Article 243-Q of the Constitution of India read with corresponding municipal laws. He has further submitted that "larger urban area" or "smaller urban area" as contemplated under Section 243-Q of the Constitution of India usually encompass in their folds areas comprising of several revenue villages and talukas and even district and thus his submission is that the term "village" under Section 4 of MLRC can by no stretch of imagination or reasoning include a "city" for the reason that the context as reflected from Section 4 does not so require.

**39.** On behalf of the State – Respondents, Dr. Saraf has also drawn our attention to Section 3 of the Maharashtra Municipal Corporations Act, 1946 which provides for constitution of a

"larger urban area" known as a city which has a population of more than three lacs and further that Section 2(8) of Municipal Corporations Act defines "city" to mean a larger urban area specified in a Notification issued under Article 243-Q(2) of the Constitution of India or under Section 3(2) of the Municipal Corporations Act. His submission, thus, is that constitution of larger/smaller urban area is relevant for the purpose of formation and administration of a local self-governance limit as contemplated in Part-IX-A of the Constitution of India and since the village is smallest in pyramid of the revenue areas under Section 4 of the MLRC and a city usually comprises of several villages and some times even more than one talukas or districts, therefore, a village can never be said to be included in a smaller or larger urban area and accordingly, reading a city to be included in the definition of the word "village" in terms of Section 2(43) of the MLRC is out of context qua Section 4 of the MLRC.

**40.** His submission is that the Aurangabad city is a larger urban area and Osmanabad is smaller urban area in terms of the provisions contained in Part-IX-A of the Constitution of India and are covered by Municipal Corporations Act and the

Maharashtra Municipal Councils Act, respectively, and since these cities comprise of several revenue villages and therefore, a "city" can never be included within the phrase "village" occurring in Section 4 of the MLRC.

**41.** He has further argued that so far as the change of name of revenue areas is concerned, the procedure as contemplated under Section 4 of the MLRC was followed inasmuch as before issuing the final Notification, in terms of the requirement of Section 4(4) of the MLRC read with Section 24 of General Clauses Act the previous draft Notification was published inviting suggestions and objections and it is only on the decision on the said objections and suggestions that the final Notifications have been issued.

**42.** Dr. Saraf's further submission is that there is no requirement of issuing a draft Notification inviting objections and suggestions for issuing a Notification for naming or renaming a city for the reason that neither the Municipal Corporations Act nor Maharashtra Municipal Councils Act contains any such requirement.

**43.** Dr. Saraf has also argued that there is no statutory provision governing the naming/renaming a city and hence the Notification issued in this behalf which has been challenged in these petitions, is an executive/administrative act.

**44.** Relying on the judgment of the Hon'ble Supreme Court in the case of 1997(2) SCC 53, it has been submitted on behalf of the State Respondents that if a definition clause in a statute begins with the phrase "unless the context otherwise requires", it implies that such definition has to be read and applied in the light of the context in the scheme of the Act.

**45.** In respect of the judgment of the division bench of this Court in the case of ***Mohd. Mustaq Ahemad (supra)*** regarding following the procedure contemplated under Section 4 of the MLRC for changing the name of the city it has been stated by learned Advocate General, same is not binding being *per-incuriam*. His submission is that the observations made by the Court in ***Mohd. Mustaq Ahemad (supra)*** that Section 4 of the MLRC is a declaration of the executive power of the Government to change the name of revenue area including a village which includes a city was based on an argument made

by the learned Counsel representing the State in the said matter which was in complete ignorance of the provisions of part-IX-A and Article 243-Q of the Constitution of India, the Municipal Corporations Act and the Maharashtra Municipal Councils Act. His submission is that since the said declaration in ***Mohd. Mustaq Ahemad (supra)*** was made without noticing the relevant provisions of the Constitution and the Municipal Corporations Act and Maharashtra Municipal Councils Act, accordingly, the judgment in ***Mohd. Mustaq Ahemad (supra)*** is not binding.

**46.** On behalf of the State, it has also been contended that changing the name of revenue areas or that of a city or town does not involve infringement of any fundamental right as naming or renaming of a city or revenue area does not involve any fundamental right of a citizen and therefore, the Writ Petitions are not liable to be entertained.

**47.** As regards the submissions made on behalf of the Petitioners that Section 4 of the MLRC cannot be taken aid of for changing the name of a revenue area without alteration in its boundary, Dr. Saraf has submitted that the judgment of the

coordinate bench of this Court in the case of Mustaq(supra) has clearly given a finding that alteration in the name of a revenue area can be made even in absence of change of boundaries of such revenue areas and hence such an argument is not tenable. He has further stated that Section 4(1)(vi) MLRC does not limit the power of the State Government to rename a revenue are only in a situation where the limits of the revenue areas are altered or any revenue area is constituted or it is abolished. His submission is that emphasis of the Petitioners on the words "such revenue area" after the words "alter the limit" occurring in Section 4(1)(vi) of the MLRC is misplaced. He concluded that the words "such revenue area" is followed by the words "so constituted" and hence such revenue areas refer to the area constituted under Section 4(1)(vi) of the MLRC. His submission is that the scheme of Section 4 clearly provides that after constituting a revenue area under Section 4(1)(i) to 4(1)(v), the State Government can exercise various powers including the power to alter the limits by amalgamation, division or abolition of such revenue areas or alter the name of such revenue areas. These powers to abolish such revenue area and power to alter the name of such revenue areas are independent of each other

and hence his submission is that the submissions made by the learned Counsel for the Petitioners are absolutely misconceived.

**48.** Replying to the submissions made by Shri Anturkar, learned Senior Advocate appearing for some of the Petitioners that in case name of a city or a revenue area incorporated in other statutes, such name cannot be changed without amending the other statutes, it has been argued by Dr. Saraf that power to change the name of a city is not circumscribed because the name of a city has been used in other statutes. He has further argued that necessary amendment would be made in the other relevant statutes and till such time they will continue as before. His submission is, however, that this does not mean that without amending each of the statutes, name of a city or a revenue area itself cannot be changed.

**49.** In respect of the argument based on non-compliance of the Central Government guidelines issued on 11th September 1953, it has been submitted by Dr.Saraf that these guidelines do not have any relevance for changing the name of a city and therefore, the ground of alleged non-compliance does not have any bearing on the exercise undertaken by the Stat Government.

His submission is that these guidelines are only advisory in nature which have been issued as executive instructions and hence they do not have any statutory force. According to Dr. Saraf, in this view of the matter, non-compliance of the Central Government guidelines does not make out a case for quashing the impugned Notifications. He has, however, stated that the Central Government issued the No-Objection for change of names only after satisfying itself that the requisites as per the guidelines are fulfilled.

**50.** Apart from raising the aforementioned objections to the prayers made in the Writ Petitions on behalf of the State – Respondents, it has also been argued that the issue relating to naming or renaming of a city or a revenue area lies in the realm of a policy decision and since in this case the Petitioners have utterly failed to point out infringement or violation or contravention of any statutory or constitutional provisions, it will be beyond the scope of interference by this Court in such decisions. He has also stated that the issue regarding naming of a city or a revenue area may or may not be judicially reviewable, however, such an issue is not justiciable. Urging these grounds, learned Advocate General states that the Writ Petitions are liable

to be dismissed.

## (E) DISCUSSION:

**51.** Before delving into the rival submissions made by the learned counsel for the parties, certain constitutional and statutory provisions are relevant to be noticed, which are as follows:

### *(a)* ***Constitution of India***

***243-Q Constitution of Municipalities.***

*(1) There shall be constituted in every State,-*

*(a) A Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;*

*(b) A Municipal Council for a smaller urban area; and*

*(c) A Municipal Corporation for a larger urban area, in accordance with the provisions of this Part:*

*Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.*

### *(b)* ***The Maharashtra Municipal Corporations Act, 1949***

***Section 2. Definitions***

*(1) ……*
*(2) ……..*
*(3) ……..*
*(4) ……*
*(5) ……..*
*(6) ……..*
*(7) ……..*

*(8) "City" means the larger urban area specified in a notification issued in respect thereof under clause (2) of article 243-Q of the Constitution of India*

*or under sub-section (2) of section 3 of the Act, forming a City, and in respect of the city of Nagpur means, the area comprised in the City of Nagpur on the date of commencement of the Bombay Provincial Municipal Corporations (Amendment) and the City of Nagpur Corporation (Repeal) Act, 2011.*

***3. Specification of larger urban areas and constitution of corporations***

*(1) The Corporation for every City constituted under this Act existing on the date of coming into force of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1994, specified as a larger urban area in the notification issued in respect thereof under clause (2) of article 243-Q of the Constitution of India, shall be deemed to be a duly constituted Municipal Corporation for the larger urban area so specified forming a City, known by the name " The Municipal Corporation of the City of ..... ".*

*(1A) The Corporation of the City of Nagpur incorporated under the City of Nagpur Corporation Act, 1948 for the larger urban area specified in the notification issued in this respect under clause (2) of article 243-Q of the Constitution of India shall, on and from the date of coming into force of the Bombay Provincial Municipal Corporations (Amendment) and the City of Nagpur Corporation (Repeal) Act, 2011, be deemed to have been constituted under this Act and accordingly the provisions of this Act shall apply to the area of the City of Nagpur.*

*(2) Save as provided in sub-section (1), the State Government may, having regard to the factors mentioned in clause (2) of article 243-Q of the Constitution of India, specify by notification in the Official Gazette, any urban area with a population of not less than three lakhs as a larger urban area;*

*(2A) Every larger urban area so specified by the State Government under sub-section (2), shall form a City and there shall be a Municipal Corporation for such larger urban area known by the name of the " Municipal Corporation of the City of .....…";*

*(3) (a) Subject to the provision of sub-section (2), the State Government may also from time to time after consultation with the Corporation by notification in the Official Gazette alter the limits specified for any larger urban area under sub-section (1) or sub-section (2) so as to include therein or to exclude therefrom, such area as is specified in the notification.*

*(b) Where any area is included within the limits of the larger urban area under clause (a), any appointments, notifications, notices, taxes, orders, schemes, licences, permissions, rules, by-laws or forms made, issued, imposed or granted under this Act or any other law, which are for the time being in force in the larger urban area shall, notwithstanding anything contained in any other law for the time being in force but save as otherwise provided in section 129A or any other provision of this Act, apply to and be in force in the additional area also from the date that area is included in the larger urban area.*

*(4) The power to issue a notification under this section shall be subject to the condition of previous publication:*

***Provided*** *that, where the population of any urban area, in respect of which a Council has been constituted under the provisions of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, as per the latest census figures has exceeded three lakhs, the State Government may, for the purpose of constituting a Corporation under this Act for such urban area, with the same boundaries, dispense with the condition of previous publication of the notification under this section.*

## *(c) The Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965*

### *2. Definitions*

*In this Act, unless the context otherwise requires,—*

*(6) " Council " means a municipal council constituted or deemed to have been constituted for a smaller urban area specified in a notification issued in this respect, under clause (2) of article 243-Q of the Constitution of India or under sub-section (2) of section 3 of this Act ] ;*

*(24) "municipal area" means the territorial area of a Council or a Nagar Panchayat.*

### *3. Specification of areas as smaller urban areas*

*(1) A Council for every municipal area existing on the date of coming into force of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1994, Mah.XLI of 1994, specified as a smaller urban area in a notification issued under clause (2) of article 243-Q of the Constitution of India in respect thereof, shall be deemed to be a duly constituted Municipal Council known by the name ..... Municipal Council.*

*(2) Save as provided in sub-section (1), the State Government may, having regard to the factors mentioned in clause (2) of article 243-Q of the Constitution of India, specify, by notification in the Official Gazette, any local area as a smaller urban area :*

***Provided*** *that no such area shall be so specified as a smaller urban area unless the State Government, after making such inquiry as it may deem fit is satisfied that,—*

*(a) the population of such area is not less than 25,000 ; and*

*(b) the percentage of employment in non-agricultural activities in such area is not less than thirty-five per cent.*

*(2A) For every smaller urban area so specified by the State Government under sub-section (2), there shall be constituted a Municipal Council known by the name ..... Municipal Council.*

*(3) Before the publication of a notification under sub-section (2), the*

*State Government shall cause to be published in the Official Gazette, and also in at least one newspaper circulating in the area to be specified in the notification, a proclamation announcing the intention of Government to issue such notification, and inviting all persons who entertain any objection to the said proposal to submit the same in writing with the reasons therefor, to the Collector of the District within not less than thirty days from the date of the publication of the proclamation in the Official Gazette.*

*Copies of the proclamation in Marathi shall also be posted in conspicuous places in the area proposed to be declared as a municipal area.*

*(4) The Collector shall, with all reasonable despatch, forward any objection so submitted to the State Government.*

*(5) No such notification as aforesaid shall be issued by the State Government unless the objections, if any, so submitted are in its opinion insufficient or invalid.*

## *(d) The Maharashtra Land Revenue Code, 1966*

***2. Definitions.-***

*In this Code, unless the context otherwise requires –*

*1 …….*
*2 …….*
*3 …….*

*(43) "village" includes a town or city and all the land belonging to a village, town or city*

***4. Constitution of revenue areas.-***

*(1) The State Government may, by notification in the Official Gazette, specify-*

(i) *The districts (including the City of Bombay) which constitute a division;*
(ii) *The sub-divisions which constitute a district;*
(iii) *The talukas which constitute a sub-division;*
(iv) *The villages which constitute a taluka;*
(v) *The local area which constitutes a village; and*
*(vi) Alter the limits of any such revenue area so constituted by amalgamation, division or in any manner whatsoever, or abolish any such revenue area and may name and alter the name of any such revenue area; and in any case where any area is renamed, then all references in any law or instrument or other document to the area under its original name shall be deemed to be references to the area as renamed, unless expressly otherwise provided:*

*Provided that, the State Government shall, as soon as*

*possible after the commencement of this Code, constitute by like notification every wadi, and any area outside the limits of the gaothan of a village having a separate habitation (such wadi or area having a population of not less than (three hundred, as ascertained by a revenue officer not below the rank of a Tahsildar to be a village; and specify therein the limits of the village so constituted.*

*(2) The Collector may by an order published in the prescribed manner arrange the villages in a taluka which shall constitute a saza and the sazas in a taluka which, shall constitute a circle, and may alter the limits of, or abolish, any saza or circle, so constituted.*

*(3) The divisions, districts, sub-divisions, talukas, circles, sazas and villages existing at the commencement of this Code shall continue under the names they bear respectively to be the divisions, districts, sub-divisions, talukas, circles, sazas and villages, unless otherwise altered under this section.*

*(4) Every notification or order made under this section shall be subject to the condition of previous publication; and the provisions of Section 24 of the Maharashtra General Clauses Act, shall, so far as may be, apply in relation to such notification or order, as they apply in relation to rules to be made after previous publication.*

## *(e) The Maharashtra General Clauses Act, 1904*

## *Section 24*

***24.*** *Where, by any Bombay Act or Maharashtra Act, a power to make rules or bylaws is expressed to be given subject to the condition of the rules or by-laws being made after previous publication, then the following provisions shall apply, namely;—*

*(a) the authority having power to make the rules or by-laws shall, before making them, publish a draft of the proposed rules or by-laws for the information of persons likely to be affected thereby;*

*(b) the publication shall be made in such manner as that authority deems to be sufficient or, if the condition with respect to previous publication so requires, in such manner as the Central Government, or as the case may be, the State Government prescribes;*

*(c) there shall be published with the draft, a notice specifying a date on or after which the draft will be taken into consideration;*

*(d) the authority having power to make the rules or by-laws, and, where the rules or by-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received*

*by the authority having power to make the rules or by-laws from any person with respect to the draft before the date so specified;*

*(e) the publication in the Official Gazette of a rule or by-law purporting to have been made in exercise of a power to make rules or by-laws after previous publication shall be conclusive proof that the rule or by-law has been duly made.*

**52.** We now proceed to examine as to whether there exists any statutory framework for naming/renaming or altering the name of (1) a city and (2) revenue areas/units.

**53.** The concept of a city or a town is intrinsically contained in the concept of various units of urban local self-governance. Prior to insertion of Part IX-A in the Constitution by Constitution (Seventy Fourth Amendment) Act, 1992, which came into force w.e.f. 1st June 1993, the constitution, functions and duties of various local self-governance units which are known as municipalities, were governed by various legislations enacted by respective States in our country. However, through the enactment of Constitution (Seventy Fourth Amendment) Act, 1992, these local self-governance units have been alleviated and given constitutional status by insertion of Part IX-A in the Constitution. Article 243-Q of the Constitution provides for constitution of municipalities by different names. These municipal units are broadly described as (i) smaller urban area,

and (ii) larger urban area.

**54.** We may also notice that for the purpose of giving effect to various provisions contained in Part-IX-A of the Constitution of India, the said provision itself provides for corresponding amendments in various State Legislations governing the constitution and affairs of municipal institutions. Article 243-ZF of the Constitution of India provides that any law relating to municipality which was in force immediately before commencement of the Constitution (Seventy fourth Amendment) Act, 1992, if inconsistent with the provisions of Part -IXA, shall continue to be in force unless it is amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement whichever is earlier. Thus, Article 243-ZF of the Constitution of India saved the existing laws relating to municipalities in the respective States only till the same were amended in tune with the provisions of Part-IXA or till expiration of one year from the date Part-XIA was enforced, which was earlier.

**55.** So far as the State of Maharashtra is concerned, there are three legislations, which govern the municipal institutions i.e.

urban local self-governance units and these legislations are the Maharashtra Municipal Corporations Act, 1949, the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (hereinafter referred to as the **Act of 1965**) and the Mumbai Municipal Corporation Act, 1888. Necessary amendments have been made by the State Legislature in these legislations to bring the provisions of these enactments in tune with the provisions of Part – IXA of the Constitution of India. The affairs of the Aurangabad Municipal Corporation are governed by the Act of 1949, whereas the affairs of Osmanabad Municipal Council are governed by the Act of 1965. Section 2(8) of the Act of 1949, as quoted above, defines a city to mean a larger urban area specified in a Notification issued in respect thereof under Article 243-Q of the Constitution of India or under Section 3(2) of the Act of 1949. Section 3 of the Act of 1949 provides for specification of larger urban areas and constitution of corporations, according to which the Corporation of every city which was constituted under the said Act and existed on the date of coming into force the Amendment Act of 1994 and specified as larger urban area under the Notification issued under Clause (2) of Article 243-Q of the Constitution of India,

shall be deemed to be a duly constituted Municipal Corporation for the larger urban area forming a city. Sub Section (2) of Section 3 provides that State Government may notify any urban area with a population of not less than three lacs as a larger urban area. Sub Section (2) of Section 3 provides that every larger urban area shall form a city for which there shall be a Corporation.

**56.** Sub Section (3) of Section 3 of the Act of 1949 empowers the State Government to alter the limits of any larger urban area so as to include therein or to exclude there from any area as may be specified in a Notification. Sub section (4) of Section 3 further provides that Notification of alteration of limits of larger urban area can be issued subject to the condition of previous publication with the only exception where population of any urban area in respect of which a Municipal Council has been constituted under the provisions of the Act of 1965 is to be upgraded to a Municipal Corporation. Thus, the requirement of the condition of previous publication of Notification can be dispensed with for the purposes of constituting a Corporation under the act of 1949 in case the population of the existing Municipal Council exceeds three lacs.

**57.** Certain provisions of the Act of 1965 may also be discussed at this juncture itself. The Municipal council has been defined under section 2(6) of the Act of 1965 to mean a Municipal Council constituted or deemed to have been constituted for a smaller urban area specified in a Notification issued under Clause 2 of Article 243-Q of the Constitution of India or under Section 3(2) of the Act of 1965. Section 3(2) of the Act of 1965 vests power with the State Government to specify by a Notification in the official gazette any local area as a smaller urban area. Sub Section (3) provides that before issuing any Notification under sub Section (2), a proclamation announcing the intention of the Government for specifying a smaller urban area shall be published inviting objections to such a proposal.

**58.** It is also to be noticed that Section 3(1) provides that any Municipal Council for a municipal area which existed on the date of coming into force of the 1994 Amendment Act and specified as a smaller urban area shall be deemed to be a duly constituted Municipal Council.

**59.** Thus, the relevant provisions of the Act of 1949 and Act of 1965 as discussed above though provide for incorporation and

establishment of larger urban area and smaller urban area in terms of the provisions contained in Article 243-Q of the Constitution of India, which are known as Municipal Corporation and Municipal Council respectively, however, the said enactments do not contain any provision for naming/renaming or altering the name of a Municipal Corporation or a Municipal Council.

**60.** The legal position which, thus, emerges is that neither the 1949 Act nor the 1965 Act contain any provision regulating naming/renaming or altering the name of Municipal Corporation or a Municipal Council which are constituted and established for a city or a town. This legal position is not being disputed by either of the parties, however, on behalf of the Petitioners it has been argued that Section 4(iv) read with Section 2(43) of the MLRC contain a statutory framework for naming/ renaming or altering the name of a city or a town. Section 2(43) and Section 4 of the MLRC have been reproduced in a preceding paragraph of this judgment. The definition clause contained in Section 2 of the MLRC commences with the phrase **"in this Code unless the context otherwise requires".** Section 2(43) states that **"village"** includes a town or city and all the land belonging to a

village, town or city. Section 4 empowers the State Government to specify revenue areas or units known as a division or a district or a sub division or a taluka or a village or a local area. Section 4(1)(vi) also empowers the State Government to alter the limits of any revenue area by amalgamation, division or in any manner whatsoever. It also permits the State government to abolish any such revenue area and also to name and alter the name of any such revenue area.

**61.** Thus, so far as naming/renaming or altering the name of a revenue area is concerned, section 4(1)(vi) of the MLRC clearly empowers the State Government to do that. This power is, however, subject to the provisions of sub section (iv) according to which every Notification or order in respect of specification of revenue areas or alteration in the limits of revenue area or naming / renaming or altering the name of revenue area, can be issued or made only subject to the condition of previous publication and application of the provisions of Section 24 of the Maharashtra General Clauses Act, 1904**.** It is to be noted that Section 24 of the General Clauses Act provides that where in any State enactment, power to make rules or bylaws is given subject to condition of such rules or bylaws being made after previous

publication, then a draft of the proposed rules or bylaws for information to persons likely to be affected needs to be published. It further provides that after publication of draft Notification, the competent authority shall consider any objection or suggestion which may be received by the authority concerned and it is only thereafter that the final Notification can be issued. Thus, so far as the naming/renaming or altering the name of a revenue area is concerned, then there exists, undisputedly a statutory mechanism or framework under Section 4 of the MLRC. However, as to whether Section 4 read with Section 2(43) of the MLRC provides for a statutory mechanism / framework for altering the name of a city is the issue which needs consideration by the Court.

**62.** It is well settled principle of interpretation of statutes that in case of any ambiguity in deriving the correct meaning of a word or a phrase occurring in a statute, aid can be taken of the heading or title prefixed to a section. Reference can be had in this regard to a judgment of Hon'ble Supreme Court in the case of ***Raichurmatham Prabhakar Vs. Rawatmal Dugar***[11]***,*** paragraph 14 whereof is quoted below:

[11] **(2004) 4 SCC 766**

> ***"14.*** *The view is now settled that the headings or titles prefixed to sections or group of sections can be referred to in construing an Act of the legislature. But conflicting opinions have been expressed on the question as to what weight should be attached to the headings or titles. According to one view, the headings might be treated as preambles to the provisions following them so as to be regarded as giving the key to opening the mind of the draftsman of the clauses arranged thereunder. According to the other view, resort to heading can only be taken when the enacting words are ambiguous. They cannot control the meaning of plain words but they may explain ambiguities. (See Principles of Statutory Interpretation by Justice G.P. Singh, 9th Edn., 2004, pp. 152 and 155.) In our opinion, it is permissible to assign the heading or title of a section a limited role to play in the construction of statutes. They may be taken as very broad and general indicators of the nature of the subject-matter dealt with thereunder. The heading or title may also be taken as a condensed name assigned to indicate collectively the characteristics of the subject-matter dealt with by the enactment underneath; though the name would always be brief having its own limitations. In case of conflict between the plain language of the provision and the meaning of the heading or title, the heading or title would not control the meaning which is clearly and plainly discernible from the language of the provision thereunder."*

**63.** In ***Maqbool Vs. State of Uttar Pradesh & Anr.***[12] ***Raichurmatham Prabhakar (supra)*** has been quoted with approval. In paragraph 9 of the report in ***Maqbool (supra)*** Hon'ble Supreme Court has observed as under:

> ***"9.*** *The title to the provision need not invariably indicate the contents of the provision. If the provision is otherwise clear and unambiguous, the title pales into irrelevance. On the contrary, if the contents of the provision are otherwise ambiguous, an aid can be sought from the title so as to define the provision. In the event of a conflict between the plain expressions in the provision and the indicated title, the title cannot control the contents of the provision. Title is only a broad and general indication of the nature of the subject dealt under the provision."*

**64.** Hon'ble Supreme Court in ***Tata Power Company Ltd. Vs. Reliance Energy Limited & Ors.***[13] Has laid down that chapter headings and marginal notes are parts of the Statute as they have also been enacted by the Legislature and there is no doubt

[12] **(2019) 11 SCC 395**

[13] **(2009) 16 SCC 659**

that it can be used in aid of construing a statute. Paragraphs 89, 90, 93 and 95 of the report are extracted hereunder:

> ***89.*** *Chapter headings and the marginal notes are parts of the statute. They have also been enacted by Parliament. There cannot, thus, be any doubt that it can be used in aid of the construction. It is, however, well settled that if the wordings of the statutory provision are clear and unambiguous, construction of the statute with the aid of "chapter heading" and "marginal note" may not arise. It may be that heading and marginal note, however, are of a very limited use in interpretation because of its necessarily brief and inaccurate nature. They are, however, not irrelevant. They certainly cannot be taken into consideration if they differ from the material they describe.*
>
> ***90.*** *We may notice some authorities on the subject at the outset. In Bennion on Statutory Interpretation, 5th Edn., Section 255, it is stated: "where general words are preceded by a heading indicating a narrower scope it is legitimate to treat the general words as cut down by the heading". Section 256 of the said treatise deals with "sidenote, heading or title", wherein it is stated:*
>
> > *"Use in interpretation.—Like anything else in what Parliament puts out as its Acts, a sidenote or heading is part of the Act, despite dicta to the contrary. It may therefore be used by the interpreter. 'No Judge can be expected to treat something which is before his eyes as though it were not there'. However, the sidenote or section heading is of very limited use in interpretation because of its necessarily brief and therefore possibly inaccurate nature."*
>
> *It was commented:*
>
> > *"If the sidenote contradicts the text this puts the interpreter on inquiry; but the answer may be that the drafter chose an inadequate signpost, or neglected to alter it to match an amendment made to the clause during the passage of the Bill. Such facts are outside the knowledge of the interpreter, who must therefore adopt a rule not depending on them.*
> >
> > *Modern Judges believe it proper to consider sidenotes or headings to sections, and gather what guidance they can from them. Thus Vinelott, J. said that the sidenote to the Income and Corporation Taxes Act, 1970, Section 488 (repealed) was a permissible and useful guide that threw light on the mischief at which the section was aimed. Upjohn, L.J. gave a precisely accurate indication of the role of the sidenote when he said:*
> >
> > *'While the marginal note to a section cannot control the language used in the section, it is at least permissible to approach a consideration of its general purpose and the mischief at which it is aimed with the note in mind.'*

*The italicised words accurately show the relationship of this component to the informed interpretation rule. Earlier inconsistent dicta, a selection of which are now considered, must be treated as erroneous."*

***91.*** *.....*

***92.*** *.....*

***93.*** *Chapter heading, therefore, is a permitted tool of interpretation. It is considered to be a preamble of that section to which it pertains. It may be taken recourse to where an ambiguity exists. However, where there does not exist any ambiguity, it cannot be resorted to. Chapter heading and marginal note, however, can be resorted to for the purpose of resolving the doubts.*

***94. .....***

***95.*** *It is, however, evident from the decision of this Court in Indian Aluminium Co. v. Kerala SEB [(1975) 2 SCC 414 : AIR 1975 SC 1967] that the modern trend is to take into consideration the marginal note. It could be used, as has been held, in STO v. Ajit Mills Ltd. [(1977) 4 SCC 98 : 1977 SCC (Tax) 536] Relevance of marginal note was also taken note of in RameshChand v. State of U.P. [(1979) 4 SCC 776] In Bombay Dyeing and Mfg. Co. Ltd. (3) v. Bombay Environmental Action Group [(2006) 3 SCC 434] marginal note has been taken into consideration as an intrinsic part of the section. In Deewan Singh v. Rajendra Pd. Ardevi [(2007) 10 SCC 528 : (2007) 1 Scale 32] it has been held that the marginal note may be taken into consideration for the purpose of proper construction of the provision although there is no ambiguity. Sarabjit Rick Singh v. Union of India [(2008) 2 SCC 417 : (2008) 1 SCC (Cri) 449] follows Deewan Singh [(2007) 10 SCC 528 : (2007) 1 Scale 32] .*

**65.** Section 4 of the MLRC is prefixed with the heading **"constitution of revenue areas".** Apart from other revenue areas it also empowers the State Government to constitute or alter the limits of a village or to alter its name. It is on account of occurrence of the word "villages" in Section 4(iv) of MLRC that it has been argued on behalf of the Petitioners that since the word "village" as per Section (2)(43) includes a town or a city as well; hence Section 4 of the MLRC will be applied in its full force

for the purposes of altering the name of a city as well. However, we have already noted above that a town or a city is the concept distinct to the concept of a revenue area, in as much the concept of a town or a city is intertwined with the concept of units of local self-governance. Even otherwise Section 2 of the MLRC commences with the phrase **"unless the context otherwise requires"**. Thus, it becomes ambiguous to deduce that village will include a city or a town as well; having regard to the very idea and concept of a city or a town as an urban local self-governance unit.

**66.** In our opinion, on account of occurrence of the phrase **"context otherwise requires'** in Section 2of the MLRC and also because Section 4 of the said Act is prefixed with the heading **"constitution of revenue areas",** reading a city or a town in the phrase "village" occurring in Section 4 of the MLRC will not be permissible. Section 4 clearly speaks about the constitution of revenue areas. The context in which the word "villages" occurs in Section 4 do not permit us to come to a conclusion that even a city or a town will be included in the word "village" occurring in Section 4.

**67.** As already noticed above, heading or title prefixed to a section of a statute becomes crucial to interpret a particular word or phrase occurring in the said section in case the meaning of the said phrase or word is not clearly decipherable. Keeping this principle of interpretation in view, we are of the considered opinion that a city or a town cannot be read into the phrase "village" occurring in Section 4 of the MLRC for the reason that Section 4 of the MLRC is prefixed with the title **"constitution of revenue areas".**

**68.** Thus, in view of the aforesaid, so far as naming / renaming or altering the name of a city or a town is concerned, even the provisions contained in Section 4 of the MLRC do not provide any statutory framework.

**69.** As regard naming / renaming or altering the name of a revenue area is concerned, Section 4 of the MLRC is unequivocally clear according to which such alteration of name of revenue area can be done after following the procedure as prescribed in Sub Section (iv) of Section 4 of the MLRC.

**70.** Having reflected upon the issue as to whether any

statutory framework exists in altering the name of a city or revenue area as above, we will now examine as to whether the procedure prescribed for altering the name of revenue areas, both in Aurangabad and Osmanabad in terms of the provisions contained in Section 4 of the MLRC has been followed or not. It is not in dispute that prior to issuance of final Notifications renaming the revenue areas of Aurangabad and Osmanabad as Chhatrapati Sambhajinagar and Dharashiv, respectively, a draft Notification as per Section 4(4) of MLRC and Section 24 of the General Clauses Act was issued inviting objections and suggestions against the proposed alteration of name. It is also not in dispute that such suggestions and objections were considered and only then final Notifications in respect of various revenue areas such as division, district, sub division, taluka and village have been issued by the State Government.

**71.** A feeble attempt has been made by the Petitioners to submit that though objections were raised to the proposed alteration in the name of revenue areas pursuant to the draft Notification issued under Section 4(4) of the MLRC, they have not been considered or taken into account by the State Government. Learned Advocate General has denied such

allegations and has submitted that due consideration was made to the objections and suggestions received pursuant to the draft Notification issued under Section 4(4) of the MLRC. Reasons for accepting the objections or suggestions or rejecting the same is an issue which in our opinion lies in the administrative realm of the State Government as it is the competent authority of the State Government which has to consider such objections and suggestions. Once consideration has been made after issuance of the draft Notification, we do not have any reason to disbelieve that due consideration to such objections or suggestions were not given by the State Government before issuing the final Notifications.

**72.** Another argument based on Section 4(1)(vi) of the MLRC has been raised on behalf of the Petitioners and the ground taken in this regard is that the action to alter the name of a revenue area can arise only in case of alteration of boundaries or limits of any revenue area and not otherwise. In other words, it has been argued on behalf of the Petitioners that power vested under Section 4(1)(vi) of the MLRC in the State Government to alter the name of revenue area is not independent; rather it is dependent on the power to alter the limits or boundaries of such

revenue areas.

**73.** We have given our conscious consideration to the aforesaid argument made by the learned Counsel representing the Petitioners, however, we find ourselves unable to agree with such submissions for the reason of the language in which Section 4(1)(vi) of the MLRC is couched. Section 4(1)(vi) empowers the State Government to alter the limits of any such revenue area. The occurrence of the word "such revenue area" at the first place in the said provision refers to the revenue areas as specified in sub clause (i)(ii)(iii)(iv) and (v) of Section 4(1) of the MLRC. It even empowers the State Government to alter the limits of any such revenue area which is constituted by amalgamation or division or in any other manner whatsoever. The word "whatsoever" is followed by a comma (,) and is further followed by the words "or abolish any such revenue area". Occurrence of the words "abolish any such revenue area" appearing in Section 4(1)(vi) relates to abolishing the revenue areas specified in sub Section (i) to (v) of Section 4(1) of the Act. The provision for empowering to alter the limits of revenue areas by amalgamation or division specifically empowers the State Government to abolish such a revenue area and further to name

it. The word "and" occurring after the words "or abolish any such revenue area" and "may name" conjoins these two phrases with the phrase which follows the word "and" i.e. "alter the name of any such revenue area". Thus, once the limits of any such revenue area is altered by amalgamation or its division or if it is abolished, under Section 4(1)(vi) provides for such revenue area with altered limits to be named afresh. The phrase occurring in this provision "and alter the name of any such revenue area", in our considered opinion, is related to all revenue areas specified in clause (i) to (v) of Section 4(1) of the MLRC.

**74.** Even otherwise, in our opinion, the power of alteration of a name of any object (in this case revenue areas) is intrinsic in the power to name such an object. If an authority is empowered under the statutory provisions to name a revenue area, there cannot be any reason to deny such power to the same authority for altering or changing its name. To this extent, we are also of the opinion that issue of alteration of name of a revenue area or even of a city or a town is not justiciable for the reason that the courts lack the requisite tool to adjudicate such an issue in absence of any judicially manageable or discoverable standard. As to by what name a particular object is to be known cannot be

judicially reviewed unless the name so proposed is atrocious. The Division Bench of this Court in the case of ***Mohd. Mustaq Ahemad (supra)*** has already repelled the argument that the State Government is empowered to alter the name of a revenue area only in case of alteration of its limits by amalgamation or division and to the said extent we are in respectful agreement with the view taken by the Division Bench in the said case.

**75.** Thus, we have no hesitation to conclude that so far as the challenge made by the Petitioners to rename the revenue areas of Aurangabad and Osmanabad to Chhatrapati Sambhajinagar and Dharashiv, respectively, is concerned, the statutory provisions contained in Section 4 of the MLRC have been followed and in absence of any procedural flaw, we are unable to subscribe to the submissions made by the Petitioners.

**76.** We shall now deal with the challenge made to the impugned Notification, whereby, names of Aurangabad and Osmanabad cities have been changed to Chhatrapati Sambhajinagar and Dharashiv.

**77.** We have concluded above on the basis of discussions

already made that for naming/renaming or altering the name of a city there does not exist any statutory framework. The submission based on Section 4 and Section 2(43) of the MLRC for asserting that even for changing the name of a city or a town the procedure as prescribed under Section 4 of the MLRC should be followed, has already been considered and repelled by us. Though adherence to the guidelines issued by the Central Government, dated 11th September 1953 has been pleaded on behalf of the State – Respondents by saying that the guidelines have been followed, however, the Petitioners have failed to point out any statutory provision to which such guidelines can be said to be referable. The guidelines appear to have been issued by the Central Government for general guidance and are general in nature and hence any consideration of the opinion and material provided by the State Government to the Central Government on the basis of which No-Objection Certificate has been issued by the Central Government, in our opinion, need not be gone into.

**78.** Two provisions of the Maharashtra General Clauses Act, 1904, which are relevant for our discussion in this matter, may also be referred to. Section 14 of the Act of 1904 provides that if by any Act any power is conferred on the Government then

that power may be exercised from time to time as the occasion requires. Section 14 of the Act of 1904 is quoted hereunder:

> ***"14.*** *Where, by any Bombay Act or Maharashtra Act made after the commencement of this Act any power is conferred on any Government, then that power may be exercised from time to time as occasion requires."*

**79.** Section 21 of the Act of 1904 states that where, by any Act, a power to issue notifications, orders, rules or by-laws is conferred, then that power includes a power to add, to amend, to vary or rescind any notifications, orders, rules or by-laws so issued. Section 21 of the Act of 1904 runs as under:

> ***"21.*** *Where, by any Bombay Act or Maharashtra Act, a power to issue notifications, orders, rules or by-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any notifications, orders, rules or by-laws, so issued."*

**80.** Thus, Section 14 as quoted above deals with exercise of a power from time to time as and when any such occasion arises. Section 21 provides that power to issue notifications, or rules or power to make orders under an enactment includes the power to amend, to add, to vary or rescind such notification/ order/ rules/ by-laws. The provisions of Section 21 of the Act of 1904 primarily contain a rule or interpretation and accordingly, if we apply the said principle enunciated in Section 21 read with Section 14 of the Act of 1904, our conclusion is that the power conferred on the State Government under Section 4 of the MLRC

to name a revenue area by issuing a notification will include the power to alter or vary the same as well.

**81.** Hon'ble Supreme Court in the case of ***Shree Sidhbali Steels Ltd. v. State of U. P.***[14]***,*** while dealing with somewhat similar provisions contained in Sections 14 and 21 of the Uttar Pradesh General Clauses Act, has held that the principle laid down in Section 21 is of general application and the power to rescind mentioned in Section 21 is without limitations or conditions. It has further been held that it was not a power so limited as to be exercised only once. The Hon'ble Supreme Court has further held that by virtue of Sections 14 and 21 of the Uttar Pradesh General Clauses Act when a power is conferred on an authority to do a particular act, such power shall include power to withdraw, modify or amend or cancel the notification earlier issued. Law in this regard has been summarized by Hon'ble Supreme Court in ***Shree Sidhbali Steels Ltd. (supra)*** which is extracted hereinbelow:

> ***36.*** *It may be mentioned that the Electricity (Supply) Act, 1948 was enacted by Parliament to provide for the rationalisation of the production and supply of electricity and generally for taking measures conducive to electrical development. The Electricity (Supply) Act, 1948 being a Central Act, the provisions of Sections 14 and 21 of the General Clauses Act, 1897 would be applicable. Section 14 of the General Clauses Act, 1897 reads as under:*

[14] **2011 SCC OnLine SC 213**

*"**14. Powers conferred to be exercisable from time to time**.—*

*(1) Where, by any Central Act or Regulation made after the commencement of this Act, any power is conferred, then, unless a different intention appears, that power may be exercised from time to time as occasion requires.*

*(2) This section applies also to all Central Acts and Regulations made on or after the fourteenth day of January, 1887."*

*Whereas Section 21 of the General Clauses Act, 1897 reads as under:*

*"**21. Power to issue, to include power to add to, amend, vary or rescind, notifications, orders, rules or bye-laws**.—*

*Where, by any Central Act or Regulation, a power to issue notifications, orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any) to add to, amend, vary or rescind any notifications, orders, rules or bye-laws so issued."*

***37.*** *Section 14 deals with the exercise of a power successively and has no relevance to the question whether the power claimed can at all be conferred. By Section 14 of the General Clauses Act, 1897, any power conferred by any Central enactment may be exercised from time to time as occasion arises, unless a different intention appears in the Act. There is no different intention in the Electricity (Supply) Act, 1948. Therefore, the power to issue a notification under Section 49 of the Act of 1948, can be exercised from time to time if circumstances so require.*

***38.*** *Section 21 is based on the principle that power to create includes the power to destroy and also the power to alter what is created. Section 21, amongst other things, specifically deals with power to add to, amend, vary or rescind the notifications. The power to rescind a notification is inherent in the power to issue the notification without any limitations or conditions. Section 21 embodies a rule of construction. The nature and extent of its application must be governed by the relevant statute which confers the power to issue the notification, etc. However, there is no manner of doubt that the exercise of power to make subordinate legislation includes the power to rescind the same. This is made clear by Section 21. On that analogy an administrative decision is revocable while a judicial decision is not revocable except in special circumstances. Exercise of power of a subordinate legislation will be prospective and cannot be retrospective unless the statute authorises such an exercise expressly or by necessary implication.*

***39.*** *The principle laid down in Section 21 is of general application. The power to rescind mentioned in Section 21 is without limitations or conditions. It is not a power so limited as to be exercised only once. The power can be exercised from time to time having regard to the exigency of time. When by a Central Act power is given to the State Government to give some relief by way of concession and/or rebate to newly-established industrial units by a notification, the same can be curtailed and/or withdrawn by issuing another notification under the same provision and such exercise of power cannot be faulted on the ground of promissory estoppel.*

> ***40.*** *It would be profitable to remember that the purpose of the General Clauses Act is to place in one single statute different provisions as regards interpretations of words and legal principles which would otherwise have to be specified separately in many different Acts and Regulations. Whatever the General Clauses Act says whether as regards the meaning of words or as regards legal principles, has to be read into every statute to which it applies. Further, power to curtail and/or withdraw the notification issued under Section 49 of the Electricity (Supply) Act, 1948 giving rebate is implied under Section 49 itself on proper interpretation of Section 21 of the General Clauses Act. Therefore, this Court is of the firm opinion that, power to curtail and/or withdraw the notification issued under Section 49 of the Electricity (Supply) Act, 1948, granting certain benefits, was available to the Respondents.*
>
> ***41.*** *By virtue of Sections 14 and 21 of the General Clauses Act, when a power is conferred on an authority to do a particular act, such power can be exercised from time to time and carries with it the power to withdraw, modify, amend or cancel the notifications earlier issued, to be exercised in the like manner and subject to like conditions, if any, attached with the exercise of the power. It would be too narrow a view to accept that chargeability once fixed cannot be altered. Since the charging provision in the Electricity (Supply) Act, 1948 is subject to the State Government's power to issue notification under Section 49 of the Act granting rebate, the State Government, in view of Section 21 of the General Clauses Act, can always withdraw, rescind, add to or modify an exemption notification. No industry can claim as of right that the Government should exercise its power under Section 49 and offer rebate and it is for the Government to decide whether the conditions are such that rebate should be granted or not."*

**82.** In view of the aforesaid principle laid down by the Hon'ble Supreme Court based on the purport of Sections 14 and 21 of the Uttar Pradesh General Clauses Act, we are of the opinion that since Sections 14 and 21 of the Act of 1904 are similarly worded, the power to name a revenue area in terms of Section 4(1)(vi) of the MLRC will include the power to alter or vary the same as well.

**83.** Much emphasis has been laid by the learned Counsel for the Petitioners on the judgment of the Hon'ble Supreme Court in the case of ***Ashwini Kumar Upadhyay (supra).*** In this

regard, we may observe that a Writ Petition was filed by Ashwini Kumar Upadhyay before the Hon'ble Supreme Court with the prayers that the Home Minister of the Government of India be directed to constitute a "Renaming Commission" to find out "original" names of ancient historical, cultural and religious places which were named by foreign invaders to maintain sovereignty and to secure right to dignity, right to religion and right to culture.

Another prayer made in the said Writ Petition was that the Archaeological Survey of India be directed to conduct research and publish the initial names of historical, cultural and religious places, which were renamed by foreign invaders. The Petitioner had also prayed that the direction be issued to the Central and State Governments to update their records and mention the "original" names of ancient historical, cultural and religious places. It is in the background of these prayers that certain observations have been made by the Hon'ble Supreme Court and the reliefs prayed for in the said Writ Petition have been denied and accordingly, the observations are to be read and understood in the context in which they were made by the Hon'ble Supreme Court. However, in the instant case, the prayer is not for

renaming; rather challenge is to the Notifications issued by the State Government whereby the names of cities and revenue areas have been changed. The said change, as observed above, so far as renaming the revenue area is concerned has precipitated on account of Notifications issued by the State Government in terms of the statutory scheme embodied in Section 4 of the MLRC. Thus, we are of the opinion that though there cannot be any quarrel with the observations made by the Hon'ble Supreme Court in ***Ashwini Kumar Upadhyay (supra),*** however, the same cannot be taken aid of for acceding to the prayers made in these Writ Petitions which primarily are for quashing the impugned Notifications.

**84.** It has also been urged by the learned Counsel appearing for the Petitioners, rather emphatically, that the judgment of the coordinate bench of this Court in the case of ***Mohd. Mustaq Ahemad (supra)*** needs to be revisited. However, we do not find any force in the said submission for the reason, firstly, that ***Mohd. Mustaq Ahemad (supra)*** holds that power to rename or alter the name of a revenue area under Section 4 of the MLRC is independent of the power to alter the boundaries of such revenue areas. We have already expressed our respectful

agreement with the said view taken in ***Mohd. Mustaq Ahemad (supra).***

And secondly, as far as the submission that Section 4(vi) of the MLRC will apply in respect of change of name of city is concerned, we find that the said observations were made by the Division Bench in ***Mohd. Mustaq Ahemad (supra)*** on the basis of the statement made before Court by the learned Government Pleader that as per the definition of "village" given in Section 2(3) of the MLRC, "village" includes a town or a city and it is in these circumstances the judgment in the case of ***Mohd. Mustaq Ahemad (supra)*** observes that, "therefore, section 4 is a declaration of executive power of the State to name or rename of any revenue area either be it division, district, sub division, taluka or a village which includes town or city". However, while making such declaration various provisions including the provisions of Act of 1949, Act of 1965 and Part IX-A of the Constitution of India, were not placed before the Court, neither these provisions have been discussed. Accordingly, in the facts of the present case, we are of the considered opinion that ***Mohd. Mustaq Ahemad (supra)*** does not constitute a binding precedent for want of consideration of various statutory and

constitutional provisions; neither does it require a re-visit by this Court.

## (F) CONCLUSION:

**85.** In view of the discussions made and reasons given, we have no hesitation to conclude that the impugned Notifications issued by the State Government renaming Aurangabad and Osmanabad cities as Chhatrapati Sambhajinagar and Dharashiv cities and the revenue areas of Aurangabad and Osmanabad to revenue areas as Chhatrapati Sambhajinagar and Dharashiv, do not suffer from any illegality or any other legal vice and thus, no interference in the impugned Notifications is warranted.

**86.** The petitions, being bereft of any merit, are hereby dismissed.

**87.** However, there will be no order as to costs.

**88.** All interim applications stand disposed of.

**(ARIF S. DOCTOR, J.)** **(CHIEF JUSTICE)**