

**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

BEFORE

**HON'BLE SHRI JUSTICE ANAND PATHAK
&
HON'BLE SHRI JUSTICE PUSHPENDRA YADAV**

WRIT PETITION NO.41941/2024

**M/S JEEWAN MOTORS PRIVATE LIMITED THROUGH ITS DIRECTOR
Vs.
STATE OF M.P. AND OTHERS**

APPEARANCE:

Shri Shekhar Sharma – learned Senior Advocate with Shri Rajeev Sharma and Shri Alok Bandhu Shrivastava – Advocates for the petitioner.

Shri Sohit Mishra – Government Advocate for respondents No.1, 2 and 3/ State.

Shri Arvind Dudhawat – learned Senior Advocate with Shri Jai Shukla – Advocate for respondents No.4, 5 and 6.

Shri S.S. Bansal – Advocate for the intervenor.

ORDER

{Delivered on 1st day of December, 2025}

Per: Justice Anand Pathak,

1. The present Writ Petition under Article 226 of the Constitution of India is filed seeking declaration of Section 6 of The Gwalior Vyapar Mela Pradhikaran Adhiniyam, 1996 (hereinafter referred as “Adhiniyam, 1996”) as unconstitutional. Petitioner thus sought following reliefs: -

“ (i) That, this Hon'ble Court may kindly be pleased to call for the entire record related with the impugned resolution dated 01/08/2023.

(ii) That, this Hon'ble Court may kindly be pleased to declare the Section 6 of the Gwalior Vyapar Mela Adhikaran Adhiniyam, 1996 (P/6) as unconstitutional.

(iii) That, this Hon'ble Court may be pleased to issue a writ in the nature of certiorari directing the respondent to set aside the impugned resolution dated 01/08/2023 (Annexure P/5).

(iv) That, this Hon'ble Court may be pleased to issue a writ in the nature of mandamus directing the respondent to permit the petitioner in participating in the said Gwalior Trade Fair.

(v) That, this Hon'ble Court may kindly be pleased to issue any other relief which it deems fit and proper in light of the facts and circumstances of the instant petition.”

2. Precisely stated facts for adjudication of the case are that petitioner is a registered dealer of Maruti Suzuki India Private Limited having its registered offices and outlets at Bhopal from where petitioner sell vehicles of the said company. Petition is preferred by the Director and authorized signatory of the Maruti Suzuki India Private Limited.
3. In Gwalior, Gwalior Vyapar Mela was organized for more than 100 years by the native Rulers of Gwalior City (since 1905 around). After independence, for promoting business activities in the State of M.P., respondents No.1 and 2 organized Trade Fair/ Mela at places like Indore, Ujjain, Gwalior, Bhopal and Jabalpur. Respondents No.1 and 2 recognizing the historical importance of Gwalior Trade Fair and for operating State level Mela at Gwalior, framed the Gwalior Vyapar Mela Pradhikaran Adhiniyam, 1996 and incorporated various provisions for mobilisation of funds, allotment of stalls/ shops/ outlets etc. The State Government from time to time notified concession/ discount in registration fees and other incidental charges over sale of vehicles. Therefore, Gwalior Mela has been a popular event specially amongst the prospective buyers of the vehicles.
4. Being dealer of Maruti Suzuki Company, which manufactures

different range of four-wheelers, petitioner is interested to obtain a shop/outlet in the Gwalior Mela/ Trade Fair, but he did not get a chance to open the stall/outlet because of impugned resolution dated 01/08/2023 (Annexure P/5) whereby the Board of Director of Gwalior Vyapar Mela decided to give shops/ outlets to dealers of those companies who are not having any dealer in Gwalior and Chambal Division. In other words, if any automobile company has dealer at Gwalior/ Chambal Division, then dealers of the same company situate outside Gwalior and Chambal Division would not get allotment of shop/outlet in Gwalior Mela. Only local dealer would be given the space/ shop. Petitioner waited for more than 01 year and then filed this petition. Petitioner is before this Court challenging the constitutionality of Section 6 of the Adhiniyam, 1996.

5. It is the submission of learned Senior Counsel appearing for the petitioner is that petitioner is authorized dealer of Maruti Suzuki Private Limited and has all the rights to participate in Gwalior Vyapar Mela and to restrict it from participating in the Gwalior Vyapar Mela, the rights granted under the Constitution are violated. Adhiniyam, 1996 is being framed not only for the people residing in Gwalior, but also for all the people residing in the State of M.P. Therefore, restricting allotment of shops/ outlets in the trade fair to the petitioner on the basis of arbitrary classification does not serve in public interest.
6. It is further submitted that respondents No.2 and 3 have not acted in just and fair manner in not allotting shop to the petitioner as respondents have not issued any tender for allotting shops for the respective dealers of the motor-vehicle company. It is further

submitted that increased participation in the trade fair will directly contribute to the growth of the public exchequer while restricting the participation will create monopoly for the companies of Gwalior city which is not in the public interest.

7. According to learned Senior Counsel, impugned resolution was in respect of allotment of shops to the dealers who are having agency of the motor-vehicle in the Gwalior/ Chambal Division *vis a vis* present petitioner, who does not operate from Gwalior/ Chambal Division is highly discriminatory and violates the fundamental rights enshrined under Article 14 & 19(1)(g) of the Constitution of India and Section 6 of Adhiniyam, 1996. He relied upon the judgment of the Hon'ble Apex Court in the case of **A.N. Parasuraman and Others Vs. State of Tamil Nadu, AIR 1990 SC 40**.
8. Another submission of learned Senior counsel is that resolution dated 01/08/2023 issued in exercise of powers conferred under Section 6 of the Adhiniyam, 1996 does not give any guiding direction to the authorities, who are implementing the Adhiniyam, 1996 to act in just, fair and transparent manner as there is no procedure for allotment of shops/ outlets.
9. Delegation of powers under section 6 of the Adhiniyam, 1996 is highly arbitrary and unconstitutional as the said Adhiniyam, 1996 nowhere states that up to what extent powers can be exercised by the respondents. The Adhiniyam, 1996 fails to define clear boundaries and limitation for exercising the powers granted to the authorities and in absence of any safeguards, it renders the Adhiniyam, 1996 as unconstitutional.
10. *Per contra*, learned Senior Counsel for the respondents No.4,5 and 6, who are contesting respondents opposes the prayer and prayed for

dismissal of the petition. According to learned Senior Counsel, petitioner is challenging validity of Section 6 of the Adhiniyam, 1996 without mentioning specific detail ground on which petitioner sought said provisions to be declared as *ultra vires*.

11. It is well settled position of law that there a presumption of constitutionality of Statue, as such for challenging the constitutional validity of a Statue, specific and detail ground on which validity of statue is sought to be challenged, are required to be pleaded and in absence of any such specific pleadings, Constitutional Court cannot go into the issue of validity of statutory provisions. In the present case, no specific ground for challenging the validity of provisions of Adhiniyam, 1996 are pleaded, therefore, instant petition is not maintainable.
12. It is further submitted that dealership agreement placed by petitioner as Annexure P/3 shows that petitioner is authorized to sale Maruti Suzuki Private Limited products including four-wheelers etc., in the territory of Bhopal, Sehor, Vidisha, but it has no authority to sale its products in the territory of Gwalior and Chambal Division.
13. Gwalior Trade Fair is being managed and organized by the authority which is a statutory body duly constituted under the Adhiniyam, 1996. Ujjain Mela as referred by the petitioner is organized by the Municipal Coproration, Ujjain and is the same is not being organized under any statue therefore, similarity cannot be drawn with Gwalior Trade Fair. For better management and control of Gwalior Trade Fair, the authority has taken decision by passing impugned resolution 01/08/2023 in the meeting of its Board of Directors.
14. It is relevant to mention that Gwalior Trade Fair was originally organized by the earstwhile Gwalior State and started in year 1905.

Thereafter, in year 1934, for better management and control of Mela **“Qawad Mela va Numaish Gwalior 1934”** was enacted by the then rulers of erstwhile Gwalior State. Thereafter, Adhiniyam, 1996 was enacted by the State Legislature with an object to provide better management and control of the Gwalior Trade Fair. Thereafter, Gwalior Trade Fair is being organized by the Authority. As such, Adhiniyam, 1996 has a limited operation mainly related with organizing the Gwalior Trade Fair only, particularly for development of business activities around Gwalior region. In furtherance of its objects, the Board of Directors of the Authority has taken necessary decisions in its meeting held, for managing and organizing the Gwalior Trade Fair.

15. Learned Senior counsel for respondents No.4 to 6 also raised the point that resolution is passed in exercise of statutory powers in furtherance of the objects of the Adhiniyam, 1996. The said authority is not made party in the *lis*. It is further submitted that Adhiniyam, 1996 has been made by the M.P. State Legislature in exercise of powers conferred under Article 245 (1) of the Constitution of India for a specific purpose and is operational in the territory of Gwalior, which is part of the State of M.P. According to him, constitutional validity of the Statue can be challenged on two grounds i.e.:-
 - (i) lack of legislative competence, and
 - (ii) violation of any of the fundamental rights guaranteed in Part III of the Constitution or of any Constitutional provisions only. No enactment can be struck down on the basis of presumption that it is arbitrary and un-reasonable.
16. Learned Senior Counsel also raised the point of lack of pleadings and non-joinder of necessary party. It is further submitted that

fundamental rights for trading activities of the dealers like petitioner as guaranteed under Article 19(1)(g) of the Constitution are not absolute but same are subject to reasonable restrictions to be imposed against enjoyment of such rights. On these grounds, respondents No.4 to 6 prayed for dismissal of the petition.

17. Learned counsel for respondents No.1,2 and 3/ State and intervenor also opposed the prayer and supported the impugned action and prayed for dismissal of the petition.
18. Heard the learned counsel for the parties at length and perused the documents appended thereto.
19. Scope of Judicial Review *vis a vis* Constitutionality of Statue is well explained by different pronouncements of the Hon'ble Supreme Court from time to time. As per the consistent view of the Apex Court, legislative enactment can be struck down only on two grounds firstly, that appropriate legislature does not have the competence to make the law; and secondly, that it takes away or abridges any of the fundamental rights enumerated in part III of the Constitution of India or any other Constitutional provision.
20. The Adhiniyam, 1996 is enacted by the State Legislature of Madhya Pradesh, which by virtue of powers conferred upon it under Article 245 (1) r/w Article 246 (3) and item No.28 (Markets and Fairs) of List II of Seventh Schedule of the Constitution of India, is competent to make such law. Therefore, as per settled law there is always a presumption of Constitutionality of Adhiniyam {See: **AIR 1995 SC 1340 (Amrit Banaspati Co. Ltd. Vs. Union of India), (2008) 14 SCC 724 (Heena Kausar Vs. Competent Authority) and (2023) 11 SCC 432 (Haji Abdul Gani Khan & Anr. Vs. Union of India & Ors.)**}}.

21. Another ground as could be culled out from the recent judgments of the Hon'ble Apex Court is that legislative enactment and its validity can be challenged on the ground of manifest arbitrariness. However, the Apex Court time and again cautioned that the Statue enacted by the parliament or State Legislature cannot be declared unconstitutional in a routine manner and violation of constitutional provisions is to be so striking that the legislative provisions under challenge can not stand at all. Presumption is in favour of constitutionality of a legislative enactment.
22. It is also well settled that allegation regarding violation of Constitutional provision should be specific, clear and unambiguous, and burden is on the person who impeaches the law as violative of Constitutional guarantee. Here in the present case, petitioner did not mention the specific, clear and unambiguous grounds on which, petitioner alleges violation of the Constitutional guarantee.
23. Recently, in the judgment of **Dr. Jaya Thakur Vs. Union of India and Others (2023) 10 SCC 276**, the Apex Court has given guidance in following manner:-

“70. It could thus be seen that this Court has held that the statute enacted by Parliament or a State Legislature cannot be declared unconstitutional lightly. To do so, the Court must be able to hold beyond any iota of doubt that the violation of the constitutional provisions was so glaring that the legislative provision under challenge cannot stand. It has been held that unless there is flagrant violation of the constitutional provisions on the law made by Parliament or a State Legislature cannot be declared bad.

71. It has been the consistent view of this Court that legislative enactment can be struck down only on two grounds. Firstly, that the appropriate legislature does not have the competence to make the law; and secondly, that it takes away or abridges any of the fundamental rights enumerated in

Part III of the Constitution or any other constitutional provisions. It has been held that no enactment can be struck down by just saying that it is arbitrary or unreasonable. Some or the other constitutional infirmity has to be found before invalidating an Act. It has been held that Parliament and the legislatures, composed as they are of the representatives of the people, are supposed to know and be aware of the needs of the people and what is good and bad for them. The court cannot sit in judgment over their wisdom.

72. It has been held by this Court that there is one and only one ground for declaring an Act of the legislature or a provision in the Act to be invalid, and that is if it clearly violates some provision of the Constitution in so evident a manner as to leave no manner of doubt. It has further been held that if two views are possible, one making the statute constitutional and the other making it unconstitutional, the former view must always be preferred. It has been held that the Court must make every effort to uphold the constitutional validity of a statute, even if that requires giving a strained construction or narrowing down its scope.

73. It has consistently been held that there is always a presumption in favour of constitutionality, and a law will not be declared unconstitutional unless the case is so clear as to be free from doubt. It has been held that if the law which is passed is within the scope of the power conferred on a legislature and violates no restrictions on that power, the law must be upheld whatever a court may think of it.

74. It could thus be seen that the challenge to the legislative Act would be sustainable only if it is established that the legislature concerned had no legislative competence to enact on the subject it has enacted. The other ground on which the validity can be challenged is that such an enactment is in contravention of any of the fundamental rights stipulated in Part III of the Constitution or any other provision of the Constitution. Another ground as could be culled out from the recent judgments of this Court is that the validity of the legislative act can be challenged on the ground of manifest

arbitrariness. However, while doing so, it will have to be remembered that the presumption is in favour of the constitutionality of a legislative enactment.”

24. Similarly, in the case of **In ref. The Waqf Amendment Act, 2025 (1)**, the Apex Court has held that :-

“ 117. It has consistently been held that there is always a presumption in favour of the constitutionality of an enactment and the burden is upon him who attacks it to show that there has been a clear transgression of the constitutional principles. It is quite well settled that the legislature understands and correctly appreciates the need of its own people, that its laws are directed to problems made manifest by experience and that its discrimination is based on adequate grounds. Equally, it is settled that the legislature is free to recognize degrees of harm and may confine its restrictions to those cases where the need is deemed to be the clearest. It has also been held that in order to sustain the presumption of constitutionality the court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived existing at the time of legislation.

118. It has also been held that a statute enacted by Parliament or a State Legislature cannot be declared unconstitutional lightly. In doing so, the Court must be able to hold beyond any iota of doubt that the violation of the constitutional provisions was so glaring that the legislative provision under challenge cannot stand. It has been held that unless there is flagrant violation of the constitutional provisions, the law made by Parliament or a State Legislature cannot be declared invalid. It has also been held that in order to declare a law unconstitutional, the Court has to come to a conclusion that the violation of any of the provisions of the Constitution is so evident that it leaves no manner of doubt.

119. The grounds on which a legislation can be declared invalid is with regard to the legislative competence of legislature or that such a legislation

is in contravention of any of the fundamental rights stipulated in Part III of the Constitution or any other provision of the Constitution or that it is manifestly arbitrary.

25. Similarly, in the case of **Vishal Tiwari Vs. Union of India, 2025 SCC Online SC 1057**, the Hon'ble Apex Court has held that:-

“7. Each branch of the State in a democracy, be it the legislature, executive or the judiciary, especially in a constitutional democracy, acts within the framework of the Constitution that is higher than all of us. It is the Constitution which imposes limits and restrictions on the powers vested in the three organs. The power of judicial review is conferred by the Constitution on the judiciary. Statues are subject to judicial review to test their constitutionality as well as for judicial interpretation. Therefore, when the constitutional courts exercise their power of judicial review, they act within the framework of the Constitution.”

26. Now if the law is to be tested on the anvil of facts and circumstances of the case then situation emerges as under.
27. Madhya Pradesh Legislature enacted the 'Gwalior Vyapar Mela Pradhikaran Adhiniyam, 1996' with following object:- **“Act to provide for better management and control of Gwalior Trade Fair”**.
28. As per Section 3(1) of the Adhiniyam, 1996, the State Government was conferred the duty for constitution of a body to be called **“The Gwalior Trade Fair Authority”** to manage and control the Trade Fair. The said authority is having perpetual succession and a common seal and shall sue and be sued by the said name.
29. Gwalior Trade Fair Authority is given all powers under Adhiniyam, 1996 to levy rent (Section 7), to grant licence (Section 8) and to remove from Trade Fair Area (Section 9). The authority also has the power to frame bylaws.
30. Section 6 of the Adhiniyam, 1996 is under challenge in instant case. The same reads as under:-

“6. Management and Control of the Trade Fair – As soon as the Authority

constituted by the State Government under Section 3, the management and control of the Gwalior Mela and the assets and liabilities, if any, of the Gwalior Mela Committee managing the Gwalior Mela at the time of constitution of the Authority together with all funds, if any, shall pass on and be vested in the Authority.”

31. In other words, Section 6 discusses the management and control of the Trade Fair through Authority, which would have all assets, liabilities and authority. At the first instance, perusal of Section 6 of the Adhiniyam, 1996 appears to be procedural in nature and it does not give any cause of action to the petitioner to challenge the validity of said section because it neither violates any constitutional provision nor the legislative incompetence is manifestly visible nor it appears to be arbitrary therefore, it does not give any cause of action to the petitioner to challenge the constitutionality of said section.
32. Be that as it may.
33. Perusal of aforesaid provisions indicate that the authority is vested with the powers to manage Gwalior Trade Fair effectively. As submitted in previous paragraphs, the Gwalior Trade Fair is being initially organized in year 1905 and for that the then Princely States framed the Act called **“Qawad Mela Va Numaish Gwalior, 1934”** and by framing instant Adhiniyam, 1996, the said Act stood repealed. Therefore, it is an Act meant for specific purpose i.e. for providing better management and control of the Gwalior Trade Fair and for that, Trade Fair Authority is conceptualized as Special Purpose Vehicle for fulfilling this object. Therefore, the whole issue deserves to be seen in perspective of Enactment and its Objects.
34. So far as resolution dated 01/08/2023 of the State Authority is concerned, it contemplates that automobile dealers of those companies would be allotted shops/ outlets in the Gwalior Vyapar Mela, who are not having dealership in Gwalior and Chambal Division. It has reason behind it that shops and area is limited in which hundreds of different shops for different trades are

to be allotted. Therefore, it is consciously decided that automobile companies, who are not having dealership in Gwalior/ Chambal Division would be given a chance so that those companies through their dealers may come and display their vehicles for sale. Since Maruti Suzuki is a widely known brand in automobile sector and in Gwalior, many automobile dealers of Maruti Suzuki are available therefore, persons like petitioner, who work in Bhopal region are denied allotment.

35. It is well known and established fact that in Gwalior Trade Fair, vehicles are given good range of tax rebate in registration fees, therefore, sale of vehicles is high in Gwalior Trade Fair, therefore, dealers from all over the State wants to get shop in the Mela premises, however, that is not possible. Therefore, if a criteria is evolved by the Trade Fair Authority for allotment of shops for better control and management of Gwalior Trade Fair then neither it constitutes arbitrariness nor violates any constitutional provisions nor it lacks legislative competence. State legislature has the competence to enact said law. Objects of the Adhiniyam, 1996 is well defined in this regard.
36. Not only this, even in Princely State, an Act was enacted for better control and management of Gwalior Trade Fair. When in year 1996, the State Legislature conceptualized this Act for better management and control of Trade Fair and enacted the law then the State legislature was well within its competence. Similarly, on the anvil of constitutionality of the Adhiniyam or on the question whether the Adhiniyam, 1996 violates any constitutional provisions or not, then on close scrutiny it appears that no such violation exists. Although petitioner raised the ground regarding violation of Article 14, 19(1)(g) and 301 of the Constitution of India, but this is not discriminatory in nature.
37. Section 6 of the Adhiniyam, 1996 nowhere caused any discrimination. The authority decided by way of resolution and the State authority was within its competence to pass said resolution for effective and better control and

management of Gwalior Trade Fair. It does not discriminate between two similarly situated entities.

38. Petitioner is a dealer of Maruti Suzuki at Bhopal and as per dealership agreement filed by the petitioner as Annexure P/3, petitioner has certain sales limitations. The said sales limitations are as reproduced under:-

“9. Sales Limitation:-

9.1. The Dealer shall not, directly or indirectly, without MSIL's prior written consent:

- a) advertise any Products outside the Territory.*
- b) solicit any orders for the sale of any Products from persons resident or carrying on business outside the Territory.*
- c) employ or pay commission to any persons or carryon business outside the Territory for the sale of any Products.*
- d) sale or hire or lease or cause or permit to be sold, hired, or leased any Products for delivery to any person other than a Customer.*

9.2. Nothing in 9.1 (a) to (d) above shall prevent the Dealer from saleing the Products or rendering service to any Customer who comes to the Dealer from outside the Territory and similarly a Customer residing in the Territory of the Dealer shall be free to buy the Products and seek service from any other Dealer.”

39. So far as territory is concerned, it is explained in Schedule I attached with the agreement and the said schedule refers the Territory Code as “T054” and appointed territory for the dealer as Bhopal, Sehore, Vidisha and Raisen. Therefore, when the dealer itself has sale limitation then dealer cannot be a similarly situated entity *vis a vis* dealers situated at Gwalior.
40. It is not a case where petitioner is left out despite fulfilling the test of similarly situated dealers.
41. Reasonable Classification emerges herein is to serve the specific purpose of effective management and control of Gwalior Trade Fair. That purpose is within the domain of Trade Fair Authority. For exercising such authority,

resolution is passed by the Trade Fair Authority and there is no discrimination palpably found.

42. It is trite law that Article 14 of the Constitution of India forbids classification, however, it does not forbid reasonable classification (**See: 2004 (4) SCC 646, M.P. Rural Agriculture Extension Officers Association Vs. State of M.P. and Another, 2008 (7) SCC 231, State of Bihar and Others Vs. Bihar State 'Plus 2' Lectures Association and Others**). Therefore, every differentiation is not discrimination. Here, reasonable classification is imperative for the authority to allot shops with discretion otherwise, Trade Fair would lose its sheen and other vendors would not get any space left for display and sale of their products.
43. As discussed in preceding paragraphs, Article 14 of the Constitution of India prohibits discrimination but not classification. To bolster the point in discussion, observation of Apex Court in case of **Krishnan Kakkantn Vs. Government Of Kerala and Ors., (1997) 9 SCC 495**, can be profitably referred to. It has been held that:-

“26. After giving our careful consideration to the facts and circumstances of the case and submissions made by the learned counsel for the parties, it appears to us that the fundamental right for trading activities of the dealers in pump sets in the State of Kerala as guaranteed under [Article 19\(1\) \(g\)](#) of the Constitution has not been infringed by the impugned circular. Fundamental rights guaranteed under [Article 19](#) of the Constitution are not absolute but the same are subject to reasonable restrictions to be imposed against enjoyment of such rights. Such reasonable restriction seeks to strike a balance between the freedom guaranteed by any of the clauses under [Article 19\(1\)](#) and the social control permitted by the clauses (2) to (6) under [Article 19](#).

27. The reasonableness of restriction is to be determined in an objective manner and from the standpoint of the interests of general public and not from the standpoint of the interests of the persons upon whom the

restriction are imposed or upon abstract consideration. A restriction cannot be said to be unreasonable merely because in a given case, it operates harshly and even if the persons affected be petty traders (*Hanif Versus State of Bihar*). In determining the infringement of the right guaranteed under [Article 19\(1\)](#), the nature of right alleged to have been infringed, the underlying purpose of the restriction imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, enter into judicial verdict (*Laxmi Khandsari Vs. State of U.P., D.K. Trivedi and Sons Vs. State of Gujrat and Herekchand Ratanchnnd Banthia Vs. Union of India*).

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29.....

30. It is true that even for imposing reasonable restriction on the fundamental right guaranteed under [Article 19\(1\)](#), the restriction is to be imposed under a valid law, be it a statutory law or statutory regulation, and not by any executive instruction of the Government. [*Kharak Singh's case*].

31. But in the instant case, no fundamental right guaranteed under Article 19(1)(g) of the Constitution has been infringed. Hence, question of invalidity on account of imposition of reasonable restriction on the exercise of such right by executive order instead by a statute does not arise in the facts of the case.

32.....

33.....

34. It has already been indicated that in *Vikalad's case*, it has been held by this Court that infringement of fundamental right under [Article 19\(1\)\(g\)](#) must have a direct impact on the restriction on the freedom to carry on trade and not ancillary or incidental effects on such freedom to trade arising out of any governmental action. It has also been held in that case that unless the trader or merchant is not wholly denied to carry on his trade, the restriction imposed in denying the allotment of wagon in favour

of such trader or merchant to transport coal for carrying out trading activities does not offend Article 19(1) (g) of the Constitution. No restriction has been imposed on the trading activity of dealers in pump sets in the State of Kerala including northern region comprising eight districts. Even in such an area, a dealer is free to carry on his business. Such dealer, even in the absence of the said circular, cannot claim as a matter of fundamental right guaranteed under Article 19(1) (g) that a farmer or agriculturist must enter into a business deal with such trader in the matter of purchase of pump sets. Similarly, such trader also cannot claim that the Government should also accept him as an approved dealer of the Government. The trading activity in dealership of pump sheets has not been stopped or even controlled or regulated generally. The dealer can deal with purchasers of pump sets without any control imposed on him to carry on such business. The obligation to purchase from approved dealer has been fastened only to such farmer or agriculturist who has volunteered to accept financial assistance under the scheme on various terms and conditions.”

44. Similarly, the Apex Court in the case of **State Of Bihar & Ors (supra)**, it has been held that:-

“11. Now, it is well settled and cannot be disputed that Article 14 of the Constitution guarantees equality before the law and confers equal protection of laws. It prohibits the State from denying persons or class of persons equal treatment; provided they are equals and are similarly situated. It, however, does not forbid classification. In other words, what Article 14 prohibits is discrimination and not classification if otherwise such classification is legal, valid and reasonable.

12. Before more than half a century, a Constitution Bench of this Court was called upon to consider ambit and scope of Article 14 of the Constitution in a celebrated decision in State of West Bengal v. Anwar Ali Sarkar. There, constitutional validity of certain provisions of the West Bengal Special Courts Act, 1950 was challenged on the ground that they were

discriminatory and violative of [Article 14](#) of the Constitution.

13. Dealing with the contention, S.R. Das, J. (as his Lordship then was) made the following instructive observations which were cited with approval in several subsequent cases (Anwar Ali Sarkar Case, AIR P.93, para54)

"54.....It is now well established that while Article 14 is designed to prevent a person or class of persons from being singled out from others similarly situated for the purpose of being specially subjected to discriminating and hostile legislation, it does not insist on an 'abstract symmetry' in the sense that every piece of legislation must have universal application. All persons are not, by nature, attainment or circumstances, equal and the varying needs of different classes of persons often require separate treatment and, therefore, the protecting class has been construed as a guarantee against discrimination amongst equals only and not as taking away from the state the power to classify persons for the purpose of legislation. This classification may be on different bases. It may be geographical or according to objects or occupations or the like. Mere classification, however, is not enough to get over the inhibition of the article. The classification must not be arbitrary but must be rational, that is to say, it must not only be based on some qualities or characteristics which are to be found in all the persons grouped together and not in others who are left out but those qualities or characteristics must have a reasonable relation to the object of the legislation. **In order to pass the test, two conditions must be fulfilled, namely, (1) that the classification must be founded on an intelligible differntia which distinguishes those that are grouped together from others, and (2) that differentia must have a rational relation to the object sought to be achieved by the Act. The differentia which is the basis of the classification and the object of the act are distinct things and what is necessary is that there must be a nexus between them. In short, while the article forbids class legislation in the sense of making improper discrimination by conferring privileges or imposing liabilities upon person arbitrarily selected out of a large number of other persons**

similarly situated in relation to the privileges sought to be conferred or the liability proposed to be imposed, it does not forbid classification for the purpose of legislation, provided such classification is not arbitrary in the sense I have just explained.

16. In Confederation of Ex-Servicemen, after considering leading cases on equal protection clause enshrined in [Article 14](#) of the Constitution, speaking for a five-Judge Bench, one of us (C.K. Thakker, J.) stated (SCC p.415, para 30)

“30. In our judgment, therefore, it is clear that every classification to be legal, valid and permissible, must fulfil the twin test, namely,

(i) the classification must be founded on an intelligible differentia which must distinguish persons or things that are grouped together from others leaving out or left out; and (ii) such a differentia must have rational nexus to the object sought to be achieved by the statute or legislation in question.”

Here, classification is with object sought to be achieved and that object is effective and better control and management of Trade Fair. Such restriction is not against any individual, like petitioner.

45. So far as right to pursue occupation/ profession is concerned, Trade Fair is not restricting or restraining the authorized dealer (petitioner herein) to sell their vehicles in the assigned territory of Bhopal. Petitioner can very well sell its vehicles within the territory of Bhopal as petitioner is also bound by the dealership agreement and cannot go beyond it. Right to pursue occupation is provided under Article 19(1)(g) of the Constitution of India. It gives all citizens, a right to practice any profession or to carry on any occupation, trade or business. Indeed, it is restricted reasonably by Clause 6 of Article 19 of the Constitution of India.

Article 19 (6) of the Constitution of India reads as under:-

“19. Protection of certain rights regarding freedom of speech,

etc.-

(1) XX XX

(2) XX XX

(3) XX XX

(4) XX XX

(5) XX XX

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, an, in particular, [nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relation to,-

(i) the professional or technical qualifications necessary for practicing any profession or carrying on any occupation, trade or business, or

(ii) The carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizen or otherwise].”

46. Thus, State is competent to make any law relating to carrying on by the State any trade, business, industry or service whether to the exclusion, compete or partial, of citizen or otherwise.
47. As submitted earlier, for better and effective management of the Gwalior Trade Fair, Adhiniyam, 1996 is enacted and when it gives powers to the authority to implement the object of Adhiniyam, 1996 then seeking interference would amount to putting Adhiniyam, 1996 upside down. The same is not permissible.

48. Another ground (although not raised by the petitioner in specific terms) is of arbitrariness. This aspect has been dealt with in detail by the Constitutional Bench of the Apex Court in the case of **Association for Democratic Reforms and Another (Electoral Bond Scheme) Vs. Union of India and Others (2024) 5 SCC 1**.

Relevant discussion of aforesaid judgment is reproduced as under:-

“190. While this Court accepted it as a settled proposition of law that a subordinate legislation can be challenged on the ground of manifest arbitrariness, there was still some divergence as to the doctrine's application with respect to plenary legislation. In State of T.N. V. Ananathi Ammal, a three-Judges Bench of this Court held that a statute can be declared invalid under Article 14 if it is found to be arbitrary or unreasonable. Similarly, in K.R. Lakshmanan v. State of T.N., a three-Judge Bench of this Court invalidated a legislation on the ground that it was arbitrary and in violation of Article 14. However, in State of A.P. v. McDowell & Co., another three-Judge Bench of this Court held that a plenary legislation cannot be struck down on the ground that it is arbitrary or unreasonable. In McDowell, this Court held that a legislation can be invalidated on only two grounds: first, the lack of legislative competence; and second, on the violation of any fundamental rights guaranteed in Part III of the Constitutional or of any other constitutional provision.

191. This divergence became more apparent when a three-Judge Bench of this Court in Malpe Vishwanath Acharya v. State of Maharashtra, invalidated certain provisions of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 relating to the determination and fixation of the standard rent. This Court

declared the provisions in question unreasonable, arbitrary, and violative of Article 14. However, the Court did not strike down the provisions on the ground that the extended period of the statute was to come to an end very soon, requiring the Government to reconsider the statutory provisions. Similarly, in Mardia Chemicals Ltd. v. Union of India, another three-Judge Bench of this Court invalidated Section 17(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 for being unreasonable and arbitrary.

204. The above discussion shows that manifest arbitrariness of a subordinate legislation has to be primarily tested vis-a-vis its conformity with the parent statute. Therefore, in situations where a subordinate legislation is challenged on the ground of manifest arbitrariness, this Court will proceed to determine whether the delegate has failed “to take into account very vital facts which either expressly or by necessary implication are required to be taken into consideration by the statute or, say, the Constitution.” In contrast, application of manifest arbitrariness to a plenary legislation passed by a competent legislature requires the Court to adopt a different standard because it carries greater immunity than a subordinate legislation. We concur with Shayara Bano that a legislative action can also be tested from being manifestly arbitrary. However, we wish to clarify that there is, and ought to be, a distinction between plenary legislation and subordinate legislation when they are challenged for being manifestly arbitrary.

- 49.** In the backdrop of above guidance, we have to see the instant issue before us. Theory of Reasonable Classification already discussed in preceding paragraphs. When the statute has specific purpose to

conduct Gwalior Trade Fair which bears history, culture and its ethos into its ambit and for more than a century, this trade fair is being organized regularly and meant to give a platform to the vendors to display their products for sale and for public at large to make choice out of these products, then the authority itself would not cause any dent over their sale prospects because authority earns through licence fees and other related source of revenue, therefore, the authority has no occasion to be arbitrary in its disposition. The Authority has to control and manage vast waves of people visiting trade fair in a given/ limited space (although it is organized in sprawling acres of land) therefore, a conscious decision has been taken for regulating inflow of people and distribution of shops, assigned space be allotted to different types of vendors in trade fair area/ mela ground. Since decision of Trade Fair Authority cannot be termed as arbitrary just because it restricts a particular dealer (petitioner herein) who otherwise is not entitled to sale its vehicles in the territory of Gwalior in normal course of business also.

50. Therefore, on all three counts, case of petitioner fails. It cannot be equated with any other Trade Fair, which normally organized by any Municipal Corporation because those Trade Fairs are regulated by M.P. Municipal Corporation Act, 1956 or related provisions thereto. Here a special Act (The Gwalior Vyapar Mela Pradhikaran Adhiniyam, 1996) is enacted for specific purpose.
51. In cumulative analysis, case of petitioner sans merits and *resultantly*, the same is hereby **dismissed**.
52. Before parting, it is expected from the Gwalior Trade Fair Authority that it would allot space/ stalls to the vendors fairly and in a transparent manner and that too, much in advance so that vendors

may not be harassed and can erect their shops/ stalls with proper paraphernalia/ decoration because successful organization of Gwalior Trade Fair every year is the solemn responsibility of the Gwalior Trade Fair Authority.

(ANAND PATHAK)
JUDGE

(PUSHPENDRA YADAV)
JUDGE