



Reserved on 05.02.2026
Delivered on 25.02.2026

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD
PUBLIC INTEREST LITIGATION (PIL) No. - 1427 of 2025

Rajendra Tyagi and 2 others	Petitioners(s)
	Versus	
State of U.P. and 4 others	Respondents(s)

Counsel for Petitioners(s)	:	Samir Sharma (Sr. Adv.) with Himanshu Agrawal
Counsel for Respondent(s)	:	Manish Goyal (A.A.G.), A.K. Goyal (A.C.S.C.), Shashi Nandan (Sr. Adv.) with Shreya Gupta, Raghuvansh Misra, Sunil Dutt Kautilya, Satyavrat Sahai

Chief Justice's Court

HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.

(Per: Kshitij Shailendra, J.)

1. Heard Shri Samir Sharma, learned Senior Counsel assisted by Shri Himanshu Agrawal, Advocate appearing for the petitioners, Shri Manish Goyal, learned Additional Advocate General for respondents no.1 and 2 and Shri Shashi Nandan, learned Senior Counsel assisted by Ms. Shreya Gupta, Advocate appearing for respondents no. 3 to 5.

PRAYERS IN WRIT PETITION

2. The petitioners, who are three (3) in number and are either Ex or

present Corporators in the Municipal Corporation, Ghaziabad (in short ‘the Corporation’ or ‘Nagar Nigam’), also having held different offices therein, have filed the present writ petition in purported public interest with a prayer to quash the order dated 03.05.2025, notice dated 01.04.2024, Resolution No. 139 dated 07.03.2025 issued by the Corporation, whereby revision in property taxes has been approved. Further prayer has been made to direct the Corporation to extend the benefit of rebate on property taxes as provided under Section 174(2)(a) of **U.P. Municipal Corporations Act, 1959** (**‘the Act’**); further restraining the Corporation from implementing the decision dated 15.02.2024 of the Executive Committee of the Corporation with a further direction to extend the benefit of rebate on early deposit of property tax.

3. The matter was heard on various dates and, on the last day of final hearing, a Civil Misc. Amendment Application No. 7 of 2026 was pressed on behalf of the petitioners, wherein prayer was made to read the date “09.01.2024” in place of “01.04.2024” in the first relief claimed in the petition.

4. For the reasons stated in the affidavit supporting amendment application, the same is allowed. Accordingly, the notice impugned shall be treated as dated 09.01.2024 in place of 01.04.2024.

FACTS OF THE CASE

Pleadings on behalf the petitioners (Writ Petition and Supplementary Affidavits)

5. The petitioners have claimed themselves to be public spirited citizens having instituted certain petitions earlier before this Court and, by referring to various provisions of the Act, mainly sections 148, 172, 173, 174, 207 to 213, 221-B and Rules 2, 3, 4, 4-A, 4-B, 4-C, 5, 5-A and 7 of **U.P. Municipal Corporation (Property Taxes) Rules, 2000** (**‘the Rules’**), it is pleaded that in the meeting of the Board of Nagar Nigam, Ghaziabad (**‘the Board’**) on 07.06.2022, the matter regarding increase in property taxes

in accordance with the DM circle rate was discussed, however, after due discussion, it was unanimously resolved that the matter be put up again for discussion in the next meeting of the Board. Subsequently, in the meeting held on 16.09.2022, the aforesaid resolution was never placed before the Board, instead the Municipal Commissioner orally informed the Board that the proposal had already been forwarded to the State Government, to which the petitioners raised serious objections.

6. In the meeting of the Board held on 07.01.2023, again, no proposal regarding enhancement of the property taxes was put up for discussion, however, the Board *suo-moto* took up the matter and a decision was taken to increase the property taxes by 10%. The said resolution of the Board was implemented on 01.04.2023. Thereafter, a notice was published on 09.01.2024 in local news papers in Ghaziabad proposing enhancement of property taxes for residential properties within Municipal limits of the Nagar Nigam in 100 wards on the basis of DM circle rates, whereby objections were invited. Prior to publishing the notice/proposal dated 09.01.2024, the same was neither placed in the meeting of the Board nor were the members of the Board informed about any such proposal.

7. In the meeting of the Executive Committee of Nagar Nigam held on 15.02.2024, members unanimously objected to the enhancement of property tax and resolved that till the matter was taken up before the Board, recovery of property tax according to the new rates be not made, however, the aforesaid proposal was finalized and published in newspapers but the same was not given effect to during the year 2024-25. Thereafter, in the meeting of the Board held on 09.10.2024, vide resolution no. 54, the proposal for enhancement of property tax on the basis of DM circle rates was rejected but, vide letter dated 26.10.2024 of the Municipal Commissioner, resolution dated 09.10.2024 was forwarded to the State Government. In response to the same, vide letter dated 06.03.2025 issued by the under Secretary, Anubhag Nagar Vikas, Lucknow, it was indicated that the property taxes be fixed according to the minimum rental value in

accordance with the provisions of section 174 of the Act and the Rules.

8. Subsequently, a meeting of all Zonal Incharges and Tax Superintendents was held on 03.05.2025 for the purposes of determination of property taxes for the Financial Year 2025-26 in accordance with the newly prescribed rates of tax and it was decided that property taxes be determined for residential buildings on the basis of carpet area and for non-residential buildings, on the basis of the covered area in accordance with the newly prescribed rates. By the said order dated 03.05.2025, a decision was taken to implement the enhanced property tax rates w.e.f 01.04.2025.

9. It is further pleaded that, earlier, the Board, vide resolution dated 07.06.2016, had decided to grant rebates providing 25% rebate on depositing house tax till the month of August, 15% rebate on deposit till September, 10% rebate on deposit till December and 5% rebate on deposit till January but, due to the Covid-19 pandemic in the year 2021, benefit of 20% rebate was extended till the month of October (instead of August). However, in the meeting of the Board held on 07.06.2022, the Municipal Commissioner informed that the rebate was discontinued and the earlier rates had been revived. Nevertheless, the Board unanimously passed the resolution that 20% rebate be extended for deposit of house tax till the month of September, while 15% rebate to be removed. Accordingly, necessary orders were issued and the same rates of rebate continued for the Financial Year 2022-23 and 2023-24, however, in the meeting of the Executive Committee held on 15.02.2024, vide resolution no. 38, the 20% rebate, which was being granted for timely deposit of house tax till the month of September, was reduced till the month of July only, which decision is illegal, arbitrary and unreasonable as the same was never approved by the Board.

10. It is further pleaded that the Board, vide resolution no. 139 dated 07.03.2025, has taken a decision that the width of the road for the purposes of calculation of rental value be fixed by taking into account the area of parking, green belt, drains, etc. As fixation of width of the roads is done in accordance with the Master Plan which is duly notified by the concerned

Development Authority under U.P. Urban Planning and Development Act, 1973 and approved by the State Government, the resolution dated 07.03.2025 to the extent it directs fixation of such width by adding the area of parking, green belt, drains, etc, is illegal, arbitrary and without jurisdiction.

11. It is further pleaded that even though, since the year 2001 onwards, in accordance with the resolutions of the Nagar Nigam, rate of increase of property tax was to the extent of 10% every two years, by means of the impugned action, it has been increased by approximately 300% w.e.f 01.04.2025 and without any approval of the Board. The increase of property taxes is said to be exorbitant, arbitrary, unreasonable, violative of Article 14 of the Constitution of India, in teeth of section 174 (2) (a) of the Act, without jurisdiction and against public interest.

12. By means of supplementary affidavit and second supplementary affidavit, it has been pleaded that prior to impugned order dated 03.05.2025 or implementing the revised rates of property tax w.e.f. 01.04.2025 for the year 2025-26, neither any public notice was published under Rule 4-A nor the procedure prescribed under Rules 4-A and 4-B was followed. A meeting of the Board was convened on 30.06.2025 in which the agenda to consider enhancement of the property tax on the basis of DM circle rates was placed but the proposal was unanimously rejected. Despite the said decision, the respondents are issuing and sending bills of property tax at the increased rates due to which, the Corporators have started protests and *dharna* etc.

Pleadings on behalf the respondents (Short Counter Affidavit and Supplementary Short Counter Affidavit)

13. Whereas, no counter affidavit has been filed on behalf of State of U.P., short counter affidavit and supplementary short counter affidavit have been filed on behalf of respondent no. 4-Corporation stating therein that as per statutory provisions, the Municipal Commissioner, Ghaziabad classified and categorized the localities situate within the entire municipal limits into Developed (A), Normally Developed (B) and Backward Area/Slum (C)

categories based upon the DM circle rates in effect at that time. The Corporation conducted a survey of the then minimum monthly rent rates (in short 'MMRR') for buildings and lands in these areas. It calculated the monthly rent rates in per square foot unit and determined its average. For example: for developed areas (category-A), the average monthly rent was calculated at Rs. 13/- per square feet and was notionally taken as 4/- for the purposes of imposition of property tax; for normally developed (category-B), it was calculated as Rs. 11/- per square feet and was notionally taken as Rs. 3.5; and for backward areas/slum (category-C), it was calculated as Rs. 8/- per square feet and was notionally taken as 3/-.

14. It is further pleaded that the monthly rent rates, so classified and categorized, were published in the news dailies, having wide circulation in the city and objections were invited. Total 318 objections were received, they were heard and disposed of by the committee constituted as per the rules. The petitioners had also lodged their written objections dated 16.02.2021 and 20.02.2021, they too were heard and their objections were also duly disposed of. The monthly rent rates determined by Corporation were presented in the meeting of Executive Committee dated 29.04.2022 in the form of proposal no. 206. Thereafter, it was presented in the meeting of the House dated 21.05.2022 but discussion thereon was deferred for the next meeting. Thereafter, in the meeting dated 07.06.2022, vide proposal no. 492, it was decided by majority that the tenure of the present House was very short, therefore, it should be placed for discussion in the next constituted House.

15. It is further pleaded that regarding implementation of revision of taxes, the then Municipal Commissioner requested for guidance from the Principal Secretary, Urban Development Department, Government of Uttar Pradesh, vide office letters dated 16.06.2022 and 06.10.2023, in response whereto, Urban Development Department directed the Municipal Commissioner to take action as per the Rules at his own level as per the powers contained in Rules 4-A and 4-B. Thereupon, the Municipal

Commissioner, acting in the interest of the Corporation and following the prescribed procedure, made final publication on 09.01.2024, to be effective from 01.04.2024.

16. It is further pleaded that the homeowners/city dwellers/taxpayers of Ghaziabad started depositing tax on the basis of new rates without any objection, revenue of Rs. 38.67 crores was collected under the new regime during the financial year 2024-25 and more than Rs. 65 crores have been collected so far in the financial year 2025-26.

17. It is further pleaded that the last exercise for determination of annual rental value was carried out in the year 2001. The determination so made was permitted to form basis for imposition of property tax upto the year 2015. In the year 2015, the rental values determined in the year 2001 were enhanced by 10%, thereafter, the same were further enhanced by 5% in the year 2016, by another 10% in the year 2018, by 15% in the year 2021 and by 10% in the year 2023.

18. Further stand has been taken that the previously determined monthly rent rates had various anomalies, like the provisions contained in the Rules regarding application of category-wise monthly rent rates were not being followed, one uniform rate was being made applicable in fully developed posh areas, normally developed areas and backward areas/slums, which was not in accordance with the provisions of the Act and the Rules, wherein there is a provision for fixing the minimum monthly rent per square foot unit of carpet area but, under the old regime, the rates for carpet area and covered area were fixed separately, such that carpet area rates were higher than covered area rates. Further, taxation of residential buildings was being done according to the covered area rates and taxation of the non-residential buildings was being done according to the carpet area rates, whereas the statutory mandate is to determine the tax of non-residential buildings according to the covered area and that of residential buildings according to the carpet area.

19. Further stand is that the new tax rates remove anomalies in the

past regime and determine the rates according to the specific area, width of the road, location of the building in developed/undeveloped/backward/rural/urban areas, so that the disparity can be removed. The determination based on proper categorization of areas and survey of prevalent rent rates in each area is as per the Act and the Rules and that the prescribed procedure has been fully followed.

Rejoinder affidavits (Rejoinder and Supplementary Rejoinder Affidavits)

20. Stand of the petitioners in these affidavits is that in case the decision taken by the Corporation vide resolution no. 139 dated 07.03.2025, whereby the width of the roads on which the property is situated is taken into account, annual value would be calculated by adding the green area, drains, parks etc. falling between the property and road and its effect would be that it would inflate the annual value of a property which comes within the category of a slum (in case there is a public drain or green belt adjacent to the road in front of the slum) while, on the other hand, the annual value of properties in a posh colony would remain the same. It amounts to treating un-equals equally on the basis of increasing/decreasing the width of the road on which the property is situated, thereby increasing or decreasing the annual value.

21. It is further stated that section 148 of the Act specifically provides a time period within which the property taxes have to be revised/implemented. If the decision to increase the property tax on the basis of DM circle rates was taken in the year 2022, the said decision could not be implemented in the year 2025-26. Admittedly, the 'MMRR' per square foot was revised in Ghaziabad, lastly in the year 2023, the same could not have been revised just the next year in 2024 (for the year 2024-25).

22. As far as the contention of the respondent no.4 that some amount as per revised rate has been deposited by some property owners for the year 2025-26, stand is that the same may have been done only due to ignorance on the part of the property owners regarding the resolutions passed by the

House of the Corporation.

SUBMISSIONS ON BEHALF OF THE PETITIONERS

23. Though, as per pleadings contained in the writ petition and supplementary affidavits, procedural aspects as regards issuance of notices, their publication etc were indicated, during the course of arguments, submissions on that line were not advanced by learned Senior Counsel appearing for the petitioners. He has, however, made vehement submissions that as per Section 173(2) of the Act, corporation taxes can be assessed and levied in accordance with the provisions of the Act and the Rules framed thereunder and though Section 173(2) provides that the taxes shall be levied on the annual value of buildings or land, in the present case, determination of annual value is erroneous and in teeth of the provisions of Section 174 read with Rule 4-A.

24. Elaborating his submissions, it has been argued that whereas annual value, in case of a building or land, means twelve (12) times of the value arrived at on multiplying the carpet area of the building or the land by applicable 'MMRR' per square foot of carpet area, in the present case, such determination has not been made according to the provisions contained under Section 174(1)(b) read with Rule 4-A and no exercise has been undertaken by the respondents in consonance with the said provisions.

25. It is further contended that whereas Rule 4-A provides that 'MMRR' is to be worked out for every group of buildings/land within a ward having regard to circle rate fixed by the Collector for purposes of the Indian Stamp Act, 1899 and the current 'MMRR' in the area for such building or land, the respondents have made determination only based upon the circle rates fixed by the Collector and no computation/determination has been made having regard to the current 'MMRR'. It has further been argued that whereas Section 174(1)(b) provides that 'MMRR' may be fixed once in every two years by the Municipal Commissioner, in the instant case, the last revision was done w.e.f. 01.04.2023, however, the impugned determination/enhancement has been made effective w.e.f. 01.04.2024, i.e. within one year

without waiting for expiry of two years period and, hence, for this reason alone, the impugned notice/order/resolution is liable to be set aside.

26. It is further submitted that though, vide Resolution no. 38 passed in the Board Meeting dated 15.02.2024, decision to grant rebate in different percentages was unanimously passed, no rebate is being provided by the respondents while issuing demand bills and, therefore, the Corporation is not obeying its own decision. It is further submitted that the Municipal Commissioner has attempted to justify impugned determination by categorising properties of Ghaziabad in different categories/classes based upon the width of road, but since 'road' has not been defined under the Act but only word 'street' has been defined, the respondents have no authority to make any such classification/categorisation, which is beyond their competence and also dehors the provisions of the Act itself.

27. By referring to Resolution No. 139 passed in the meeting dated 07.03.2025, it has been submitted that the respondents have illegally and arbitrarily included road, footpath, divider, central verge, green belt, parking space, service road, drain/mini drain etc. while prescribing 'MMRR' for different categories, which determination is not contemplated under the Act, inasmuch as it is only the Development Authority or the Government which has competence to determine width of the road and to decide about various parameters to be included in the said width. The very Resolution No. 139 is, therefore, said to be illegal and also consequential determination based upon the categorisation/classification so as to arrive at 'MMRR'.

28. Further submission has been made that as per Section 174(1)(b), three (3) components compositely determine annual value of building/land, i.e. the carpet area, 'MMRR' and the figure '12' by which the carpet has to be multiplied and, out of these three components, two (2) are static and the only variable component is 'MMRR' and, unless this variable component is determined strictly in accordance with the provisions of the Act and the Rules, figure of consequential property tax would be erroneous and, therefore, the respondents were under statutory obligation to determine

‘MMRR’ wisely, carefully and in accordance with law and not in an arbitrary manner.

29. Reliance has been placed on behalf of the petitioners on the following judgments:-

(i) **Dipak Babaria and another Vs. State of Gujarat and others: (2014) 3 SCC 502;**

(ii) **Commissioner of Income Tax, Mumbai Vs. Anjum M.H. Ghaswala and others: (2002) 1 SCC 633**

SUBMISSIONS ON BEHALF OF THE RESPONDENT-CORPORATION AND ITS OFFICERS

30. Per contra, learned counsel for the respondent-Corporation and its Officers has made submissions that the controversy involved in the petition is only about ‘MMRR’ and not about rate of property tax. Elaborating his submissions, it is contended that as per Section 148 of the Act, power to determine rates of taxes lies with Corporation, taxes are to be imposed as per Sections 172 and 173 of the Act and determination of ‘**annual value**’ is the sole prerogative of the Municipal Commissioner. Reference has also been made to Rules 2(k) and (l) to address on the definition of ‘annual value’ and monthly rate and submission has been made that the Municipal Commissioner has followed the statutory mandate contained under Rule 4(1) while making ‘ward-wise and nature-wise’ classification of properties by forming nine (9) groups. Rules 4-A, 4-B and 4-C were read with vehemence to show strict compliance done by the Municipal Commissioner.

31. As far as the steps undertaken by the Municipal Commissioner so as to arrive at the impugned decision, submission has been made that in the year 2020, every locality in every ward was categorized into three categories: Developed Areas (A), Normally Developed Areas (B) and Backward/Slum Areas (C) based upon the DM circle rates. A team of Nagar Nigam officials was deputed by the Municipal Commissioner to carry out a survey of every locality in every ward of District Ghaziabad for

determination of 'MMRR' of each category A, B and C.

32. It is further contended that on 05.02.2021, the provisionally determined 'MMRR' were widely published in two reputed newspapers of the District and objections were invited from the masses and a detailed notification was also published on the official website. On 26.04.2022, total 318 objections were received. Petitioner nos. 1 and 2 also filed their objections. All the objections were heard by a duly constituted Committee and were disposed of by reasoned and speaking orders. The outcome of the decision taken on the objections of petitioners no.1 and 2 was duly communicated to them. On 29.04.2022, the provisionally determined 'MMRR' were placed before the Board in its meeting, vide agenda no. 206, however, discussion on it was postponed upto the next meeting. On 21.05.2022, the provisionally determined 'MMRR' were once again placed before the Board, however, no discussions were made qua such determination.

33. It is further contended that on 07.06.2022, discussion on the provisionally determined 'MMRR' was once again postponed by the Board for the next session. On 16.06.2022, Municipal Commissioner intimated the Principal Secretary, Urban Development about the exercise carried out by him under section 174 of the Act and determination of 'MMRR' reached by him. When Municipal Commissioner did not receive any response to his letter dated 16.06.2022, he again wrote to the Principal Secretary on 06.10.2023 asking for guidance in respect of exercise carried out under section 174. On 27.10.2023, Under Secretary to the State Government required the Municipal Commissioner to carry out determination of 'MMRR' at his own level in accordance with provisions of section 174 and Rules 4-A and 4-B. On 09.01.2024, final publication of the revised rental values was made in two reputed newspapers dailies and the same were made effective from 1.4.2024.

34. It is further contended that on 15.02.2024, the Executive Committee of the Nagar Nigam resolved to keep the newly determined

‘MMRR’ in abeyance for the time being, consequently its implementation was suspended. Thereafter, on 09.10.2024, the Board passed a resolution bearing No. 54 rejecting the proposal for enhancement of property tax on the basis of DM circle rates. On 26.12.2024, Municipal Commissioner intimated Principal Secretary, Urban Development, Government of U.P. about the resistance being made by the Board and sought his guidance. On 10.01.2025, Under Secretary to the Government of U.P. forwarded the letter of the Municipal Commissioner dated 26.12.2024 to Director, Nagriya Nikay Nideshalaya, U.P. Lucknow and sought its report/comments in the matter.

35. On 28.01.2025, the Secretary, Financial Resources Development Board submitted a detailed report to the Government opining that the resolution no. 54 dated 09.10.2024 passed by Nagar Nigam Board is without any authority of law and is legally unsustainable. On 06.03.2025, based upon the aforesaid report, the Under Secretary to the Government of U.P. responded to the letter of the Municipal Commissioner dated 26.12.2024 requiring him to determine the monthly rental values in accordance with section 174 of the Act of 1959 and Rules 4-A and 4-B of the Rules, 2000, at his own level.

36. It is further contended that Nagar Nigam started assessing property tax as per the new regime. On 07.03.2025, its Board passed a fresh resolution taking into account the opinion of the State Government dated 06.03.2025 and accepting the determination of ‘MMRR’ done by the Municipal Commissioner. On 07.03.2025, the Board passed resolution no. 139 resolving to categorize localities in each ward on the basis of the width of the road indicated in the Master plan and, in its absence, as per the sanctioned map of Awasiya Yojna. On 30.06.2025, the Board convened a special session and once again passed a resolution rejecting the adoption of a ‘MMRR’ determined by the Municipal Commissioner under Section 174.

37. As regards submissions made on behalf of the petitioners that the Municipal Commissioner was not competent to prescribe ‘MMRR’ based

upon width of the road, learned counsel for the respondents has made submissions that as per Section 2(74) of the Act, 'street' includes road also and, therefore, contrary submission made has no substance.

38. It is further contended that during the course of ward-wise categorization of localities, for developed areas falling under Category (A), the rent per square foot of carpet area varied from Rs.6/- to Rs.17/-, for normally developed areas, it varied from Rs.5/- to Rs.20/- and for backward/slum areas, the range was from Rs.4/- to Rs.11/-. Reference was made to a table appended as Annexure SCA-2 to the short counter affidavit indicating that an average of the monthly rent per square foot qua all the three categories was separately taken in the manner that for developed areas, the average figure was indicated as '13', for normally developed areas, the figure was shown as '11' and for backward/slum areas, it was indicated as Rs.8/-.

39. On a pointed query made by the Court from the learned counsel appearing for the Corporation that when 'MMRR' was shown to be based upon the average figures taken as 13, 11 and 8, as to why the said figures were further brought down respectively to Rs. 4, 3.5 and 3, submission was made that the 'lowest' figure of rent for all categories A, B, and C was respectively Rs. 6, 5 and 4 and the Municipal Commissioner, in his own wisdom, thought it proper to bring down the 'MMRR' even below the lowest figures and, accordingly, indications were made in the public notice dated 09.01.2024.

40. As far as the submissions made on behalf of the petitioners that since Section 174(1)(b) read with Rule 4-A obliges the Municipal Commissioner to determine the 'MMRR' once in every two years and, therefore, impugned exercise of revising the same within one year is unsustainable, it has been argued on behalf of the respondents that previous exercise under the said provisions was undertaken only in the year 2001 and not thereafter and, therefore, challenge laid to the impugned action on this ground, has no substance. Submission is that the 'MMRR' was kept intact

since 2001 and it was only since 2015-16 that the same was increased to Rs. 1.10 and, then, in the year 2018, it was increased to Rs. 1.27, thereafter in the year 2021, the figure reached to Rs. 1.46 and, lastly, w.e.f. 01.04.2023, the 'MMRR' was indicated as Rs. 1.61; however, the said increment was not based upon any statutory exercise under Section 174(1)(b) read with Rule 4-A, rather it was a percentage increase based upon wisdom of the Commissioner and periodic decisions taken by the Board.

41. Lastly, it has been contended that the petitioners being Ex or present Corporators of the Corporation, they are bound by the decision of the Board and any action or stand taken by them against Board's decision cannot be made subject matter of a petition filed in purported public interest. Submission is that the petition has been filed by the petitioners only to settle their political scores with one or the other authority of the Corporation and, therefore, the same deserves to be dismissed with costs.

42. Reliance has been placed on behalf of the respondents on the following judgments:-

(i) Shiv Sewak Singh and others Vs. State of U.P. and others: 2012 (7) ADJ 724;

(ii) Akola Municipal Corporation and another Vs. Zishan Hussain Azhar Hussain and another: 2025 SCCOnline SC 2729

SUBMISSIONS ON BEHALF OF THE STATE

43. Shri Manish Goyal, learned Additional Advocate General, has made submissions that as per Section 174(1)(b) read with Rule 4-A, Municipal Commissioner is the competent authority to determine 'MMRR' and based thereupon, property taxes are levied. By referring to Section 116 of the Act, submission has been made that in case of any doubt or dispute arising as to which Corporation Authority any particular function belongs, reference can be made to the State Government whose decision shall be final and, in the present case also, Municipal Commissioner had sought opinion from the State Government, which was furnished. Specific reference has

been made to communication dated 06.03.2025 whereby the State Government had required the Commissioner to proceed at his own level as per Section 174 and Rules 4-A and 4-B. In sum and substance, the contention is that determination made by the Municipal Commissioner in furtherance of the guidelines and directions issued and request made by the State Government, is strictly in accordance with the provisions of the Act requiring no interference by this Court.

DISCUSSION

44. Since applicability and interpretation of various provisions of the Act and Rules is involved in this matter and '**levy/determination of property taxes**' and '**annual value**' of a property, are germane to the controversy involved, it would be appropriate to refer to certain relevant provisions, which read as under:-

“172. Taxes to be imposed under this Act.- (1) For the purposes of this Act and subject to the provisions thereof and of Article 285 of the Constitution of India the Corporation shall impose the following taxes, namely —

(a) **property taxes**,

.....

(3) The Corporation taxes shall be assessed and levied in accordance with the provisions of this Act and the rules and bye-laws framed thereunder.

(4)

173. Property taxes leviable.- (1) For the purposes of sub-section (1) of section 172 **property taxes** shall comprise the following taxes which shall, subject to the exceptions, limitations and conditions hereinafter provided, be levied on buildings and lands in the city —

(a) **a general tax** which may be levied, if the Corporation so determines, on a graduated scale;

(b) a water tax leviable in areas where water is supplied by the Corporation;

(c) drainage tax leviable in areas provided with sewer system by the Corporation;

(d) a conservancy tax in areas in which the Corporation undertakes the collection, removal and disposal of excrementitious and polluted matter from privies, urinals and cess-pools.

(2) Save as otherwise expressly provided in this Act or rules made thereunder, these taxes shall be levied on the annual value of

buildings or land as the case may be:

Provided that the aggregate of the property taxes shall in no case be less than 22 percent and not more than 32 percent of the annual value of the building or land or both assessed to such taxes, so however, that the general tax shall not be less than 10 percent and not more than 15 percent, the water tax shall not be less than 7.5 percent and not more than 12.5 percent, the drainage tax shall not be less than 2.5 percent and not more than 5 percent and the conservancy tax shall not be more than 2 percent of the annual value.

174. Definition of “annual value”.- (1) “Annual value” means—

(a) in case of railway stations, colleges, schools, hotels, factories, commercial buildings and other non-residential buildings, twelve times the value arrived at on multiplying with multiplier to be fixed by rules in the monthly rate of rent per square foot of residential buildings fixed under clause (b) with the covered area of the building or open area of the land or both as the case may be.

(b) in the case of a building or land not falling within the provisions of clause (a), twelve times the value arrived at on multiplying the carpet area of the building, or the area of the land, by the applicable minimum monthly rate of rent per square foot of the carpet area in the case of building or the applicable minimum monthly rate of rent per square foot of the area in the case of land, as the case may be, and for this purpose the minimum monthly rate of rent per square foot shall be such as may be fixed once in every two years by the Municipal Commissioner on the basis of the location of the building or the land, nature of the construction of the building, the circle rate fixed by the collector for the purposes of the Indian Stamp Act, 1899 and the current minimum rate of rent in the area for such building or land such other factors, and in such manner, as may be prescribed:

Provided that where the annual value of any building would by reason of exceptional circumstances, in the opinion of the Corporation, be excessive if calculated in the aforesaid manner the Corporation may fix the annual value at any less amount which appears to it equitable.”

45. Since 'MMRR' is determined as per Rules of 2000, relevant Rules 4, 4-A, 4-B and 4-C read as under:-

“4. Classification of Property.- (1) Municipal Commissioner shall classify the location of property falling within the provisions of Section 174 of the Act, ward-wise and thereafter within each ward, it shall be classified basing on the situation of property on three different types of roads, namely

(a) roads having a width of more than 24 metres,

(b) roads having width of 12 metres to 24 metres,

(c) roads having width less than 12 metres.

(2) Municipal Commissioner shall classify the nature of construction

of buildings falling, within the provisions of Section 174 of the Act, on the following basis-

- (a) pakka building with R.C.C roof or R.B roof;**
- (b) any other pakka building; or**
- (c) kachcha building that is all other buildings not covered in Clauses (a) and (b)**

(3) Municipal Commissioner shall accordingly arrange all buildings in a ward in maximum number of nine different groups and in case of all vacant plots of land, in maximum number of three different groups as shown below:

(a) in case of building, the nine groups shall be as follows-

- (i) pakka building with R.C.C roof situated on a road having a width of more than 24 metres,**
- (ii) pakka building with R.C.C roof situated on a road having width of 12 metres to 24 metres**
- (iii) pakka building with R.C.C roof situated on a road having width less than 12 metres,**
- (iv) other pakka building situated on a road having a width of more than 24 metres,**
- (v) other pakka building situated on a road having a width of 12 metres to 24 metres,**
- (vi) other pakka building situated on a road having width less than 12 metres,**
- (vii) kachcha building situated on a road having a width of more than 24 metres,**
- (viii) kachcha building situated on a road having a width of 12 metres to 24 metres,**
- (ix) kachcha building situated on a road having width less than 12 metres,**

(b) In case of land, the three groups will be as follows-

- (i) Land situated on a road having a width of more than 24 metres;**
- (ii) Land situated on a road having a width of 12 metres to 24 meters;**
- (iii) Land situated on a road having a width less than 12 metres.**

4-A Fixation of minimum monthly rate of rent.- (1)The Municipal Commissioner shall **once in every two years** work out **minimum monthly rate of rent per unit area (square foot) of the carpet area for every group of building within a ward or the applicable minimum monthly rate of rent per unit area (square foot) of the area for every group of land as the case may be and f ix the rate as residential building having regard to-**

- (i) the circle rate fixed by the Collector for purposes of the Indian Stamp Act, 1899; and**

(ii) the current minimum rate of rent in the area for such building or land:

Provided that before fixing such monthly rate of rent, the Municipal Commissioner shall notify such proposed rates in two daily newspapers having circulation in such city and thereafter providing a minimum fifteen days time for filing objections by interested persons. All such objections shall be heard ward-wise after grouping the objections received in maximum number of 12 different bunches. Each bunch shall contain the objections received from one group of buildings or one group of land, as the case may be. All objections shall be disposed of by the Municipal Commissioner himself or an officer authorised by Municipal Commissioner in this behalf after giving the opportunity of being heard to at least ten per cent of the total number of objections. It shall not be necessary to hear personally all the objectors or the interested persons. The objections may be decided in bunches.

Explanation.- Keeping in view of difficulties in fixation of carpet area, the rate on the basis of covered area would be 80% of carpet area based rates for purposes of self-assessment.

(2) In the case of non-residential building and land the monthly rate of rent per unit area of covered area and the land shall be multiple of the monthly rates of rent fixed under sub-rule (1) as mentioned in the Schedule.

4-B. Publication of the rates of minimum monthly rent.- The objections when decided under Rule 4-A, the Municipal Commissioner shall notify in two daily newspapers having circulation in such city, the minimum monthly rate of rent per square foot of the carpet area for every group of building within a ward, or the applicable minimum monthly rate of rent per square foot of the area for every group of land, as the case may be, and thereafter it shall become final.

4-C. Tax Assessment.- The assessment of tax shall be made on the basis mentioned hereunder:-

(a)(i) Calculation of Annual Value of residential building-
Carpet area x fixed per unit area monthly rate of rent x 12

or

Covered area x fixed per unit area monthly rate of rent x 12 x
80%

(ii) Calculation of Annual Value of residential land-Area of land
x fixed per unit area monthly rate of rent x 12

(b) (i) Calculation of Annual Value of non residential buildings
- Covered area x monthly rate of rent per unit area fixed on the
basis of the multiplier in relation with the rate of residential
building x 12

(ii) Calculation of Annual Value of non residential lands - Area
of land x monthly rate of rent per unit area fixed on the basis of
the multiplier in relation with the rate of residential building x
12

(2) Payable tax. - Taxes would be payable in accordance with the

rates fixed under Section 148 of the Act on the basis of annual value.

(3) Rebates - Rebates shall be admissible in annual value of residential buildings and taxes shall be payable in accordance with the provisions prescribed in the Act.

.....”

46. We may observe here that despite questioning procedural aspects such as issuance of notice, their publication etc, in the writ petition and supplementary affidavits, submissions on that line were not advanced on behalf of the petitioners. Even otherwise we are convinced that all steps appear to have been taken by the respondents in that regard. The dispute, therefore, remains qua determination of 'MMRR' and it has to be examined as to whether such determination is or is not in consonance with the statutory provisions.

47. A perusal of the record indicates that the Municipal Commissioner, after dividing the entire city into 100 wards, each ward comprising of different colonies and localities and also based upon the width of the road, area of the building, monthly rent and its calculation on per square foot of carpet area, classified and categorised the localities situated within the entire municipal limits of Ghaziabad in the following three categories:-

(A) Developed areas;

(B) Normally developed areas; and

(C) Backward/slum areas.

48. The classification on record indicates that for developed areas, the rent per square foot of carpet area varied from Rs.6/- to Rs.17/-, for normally developed areas, it varied from Rs.5/- to Rs.20/- and for backward/slum areas, it varied from Rs.4/- to Rs.11/-. The table appended as Annexure SCA-2 to the short counter affidavit filed on behalf of respondent no. 4 further indicates that an average of the monthly rent per square foot qua all the three categories was separately taken in the manner that for developed

areas, the figure was indicated as '13', for normally developed areas, the figure was shown as '11' and for backward/slum areas, it was indicated as Rs.8/-.

49. In view of the above, though the Municipal Commissioner could have determined 'MMRR' for three categories as respectively 13, 11 and 8, in the final public notice dated 09.01.2024 the said figures were indicated quite below the average figures. For a ready reference, the entire public notice dated 09.01.2024 is reproduced as under:-

गाजियाबाद नगर निगम (I.S.O. 9001.14001 & 18001 प्रमाणित संस्था)												
पत्रांक:- 872/न०आ०/2023-24						दिनांक: 09.01.2024						
सार्वजनिक सूचना												
<p>सर्व साधारण को सूचित किया जाता है कि उ०प्र० नगर निगम अधिनियम 1959 के प्राविधानों व उ०प्र० नगर निगम सम्पत्तिकर नियमावली 2000 के अन्तर्गत नगर निगम गाजियाबाद स्थित कुल 100 वार्डों हेतु भारतीय स्टॉम्प अधिनियम 1899 के प्रयोजन के लिये कलेक्टर द्वारा निर्धारित सर्किल दर के आधार पर न्यूनतम आवासीय मासिक किराये की प्रति वर्गफुट की दरों का निर्धारण किये जाने हेतु दो दैनिक समाचार पत्र क्रमशः दैनिक जागरण एवं अमर उजाला में प्रकाशन तथा नगर निगम की वेबसाईट "www.nagarnigamghazlabad.in, सोशल मीडिया पर अपलोड तथा समस्त जोनल कार्यालयों में नोटिस बोर्ड पर चस्पा कराकर जनसामान्य से आपत्तियाँ आमन्त्रित की गयी थी तथा प्राप्त आपत्तियों की गठित समिति के द्वारा नियमानुसार सुनवाई करते हुए निस्तारण कर संबंधित आपत्तिकर्ताओं को नोटिस निर्गत करते हुए सूचित किया गया।</p>												
श्रेणीवार मौहल्लों की मासिक किराया दरें प्रति वर्गफुट का विवरण												
		24 मी. से अधिक चौड़े मार्ग पर स्थित भवन			12 मी. से 24 मी. तक चौड़े मार्ग पर स्थित भवन			12 मी. से कम चौड़े मार्ग पर स्थित भवन			केवल भूमि/भूखण्ड के सम्बन्ध में स्थित	
क्र. सं.	श्रेणी	R.C.C./ R.B. छत सहित पक्का	अन्य पक्का भवन	कच्चा भवन	R.C.C./ R.B. छत सहित पक्का	अन्य पक्का भवन	कच्चा भवन	R.C.C./ R.B. छत सहित पक्का	अन्य पक्का भवन	कच्चा भवन	24 मी. से अधिक चौड़े मार्ग पर स्थित भूखण्ड	12 मी. से 24 मी. तक चौड़े मार्ग पर स्थित भूखण्ड
1	2	3	4	5	6	7	8	9	10	11	12	13
1	श्रेणी A	4	3.75	1.75	3.75	3.5	1.5	3.5	3.25	1.25	1.75	1.5
2	श्रेणी B	3.5	3.25	1.25	3.25	3	1	3	2.75	0.9	1	0.75
3	श्रेणी C	3	2.75	1	2.75	2.5	0.75	2.5	2.75	0.75	0.75	0.6
<p>जिसमें नियत समय के अन्दर प्राप्त आपत्तियों को नियमावली में दिये गये प्राविधानों के अन्तर्गत नगर आयुक्त के द्वारा गठित समिति के द्वारा आपत्तिकर्ताओं की सुनवाई करते हुये उक्त आपत्तियों का नियमानुसार निस्तारण कराया गया।</p> <p>नगर निगम सीमान्तर्गत स्थित कुल 100 वार्डों में स्थित मौहल्लों का श्रेणीवार विवरण नगर निगम की वेबसाईट www.nagarnigamghaziabad.in पर उपलब्ध है व किसी भी जोनल कार्यालय या नवयुग मार्केट स्थित मुख्य कार्यालय के चतुर्थ तल के कक्ष सं०-07 में सम्पर्क कर किसी भी कार्यदिवस मे देखी</p>												

जा सकती है।

नोट:- जिन वार्डों के किसी मौहल्ले को श्रेणीवार सूची में शामिल नहीं किया गया है उन्हें पूर्ण विकसित, विकसित एवं अर्द्धविकसित स्थिति के आधार पर प्रथम श्रेणी, द्वितीय श्रेणी, तृतीय श्रेणी में माना जायेगा। उक्त निर्धारित दरों को अंतिम रूप से लागू किये जाने हेतु प्रस्ताव तैयार कर मा० कार्यकारिणी व मा० सदन के समक्ष रखा गया, किन्तु प्रस्तावित दरों को लागू किये जाने के संबंध कोई चर्चा / विचार विमर्श नहीं किया गया। तदपश्चात् उक्त दरों को लागू किये जाने हेतु प्रमुख सचिव नगर विकास उ०प्र० शासन लखनऊ को पत्र प्रेषित करते हुये नगर निगम राजस्व हित में प्रस्तावित दरों को लागू किये जाने हेतु प्रस्ताव प्रस्तुत किया गया जिस पर शासन के द्वारा अपने पत्र सं०-2143/नौ-9-2023-87 ज/22 दिनांक 27.10.2023 स्वःस्तर से सम्पत्तिकर की न्यूनतम मासिक किराया की प्रति वर्गफुट की दरों को निर्धारित करने हेतु अनुमोदन प्रदान किया गया, जिसे अन्तिम रूप से प्रकाशित करते हुये वित्तीय वर्ष 2024-25 के दिनांक 01.04.2024 से लागू किया जाता है।

नगर आयुक्त, गाजियाबाद नगर निगम

50. A perusal of the tabulated depiction of the monthly rent per square foot, as indicated in the impugned notice dated 09.01.2024, shows that for buildings falling under category (A) wherein nature of construction was that of RCC/RB and which were abutting roads having width of more than 24 metres, the monthly rent was indicated as Rs.4/- and not Rs.13/-. Similarly, for categories (B) and (C), the buildings having same nature of construction and situated abutting roads having same width, instead of monthly rent being 11/- and 8/-, as determined, the figure was indicated as Rs.3.50 and 3/- respectively. 'MMRR' in other categories of buildings and based upon width of road etc. can be perused from the table itself, which is self explanatory and requires no elaboration.

51. We find substance in the submission made on behalf of the respondents that bringing down the figures of 'MMRR' even below the average values, was the step taken by the Municipal Commissioner in his own wisdom and he had exercised his power under proviso to Section 174(1)(b) which provides that where the annual value of any building would, by reason of exceptional circumstances, be excessive, the Corporation may fix the annual value at any less amount which appears to be equitable.

52. A perusal of the impugned notice dated 09.01.2024 further indicates that the Municipal Commissioner had clearly notified therein that category-wise details of locations spread in 100 wards was available on the

website of the Municipal Corporation being www.nagarnigamghaziabad.in and the same can be perused on any working day by making contact at the Head Office of the Corporation or in any zonal office. The aforesaid category-wise description of localities spread in 100 wards, being large in size, probably for this reason the clause regarding its availability on official website was inserted in the impugned public notice dated 09.01.2024.

53. Since the challenge raised in the petition is on the methodology of such categorization and arguments have been advanced on that line, the Court deems it appropriate to make a reference of such categorization. The same forms part of record as Annexure No. SCA-4 to the short counter affidavit filed by respondent no. 4. The tabulated depiction being quite large in size, it would be appropriate to refer few portions thereof indicating zone-wise, ward-wise and category-wise classification of the entire localities within the municipal limits of the Corporation. The same depicts as under:-

“श्रेणीवार मौहल्लों की मासिक किराया दरें प्रति वर्गफुट का विवरण

क्रम सं०	श्रेणी	24 मी. से अधिक चौड़े मार्ग पर स्थित भवन			12 मी. से 24 मी. तक चौड़े मार्ग पर स्थित भवन			12 मी. से कम चौड़े मार्ग पर स्थित भवन			केवल भूमि/भूखण्ड के सम्बन्ध में स्थित		
		R.C.C./R.B. छत सहित पक्का	अन्य पक्का भवन	कच्चा भवन	R.C.C./R.B. छत सहित पक्का	अन्य पक्का भवन	कच्चा भवन	R.C.C./R.B. छत सहित पक्का	अन्य पक्का भवन	कच्चा भवन	24 मी. से अधिक चौड़े मार्ग पर स्थित भूखण्ड	12 मी. से 24 मी. तक चौड़े मार्ग पर स्थित भूखण्ड	12 मी. से कम चौड़े मार्ग पर स्थित भूखण्ड
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1	श्रेणी A	4.00	3.75	1.75	3.75	3.50	1.50	3.50	3.25	1.25	1.75	1.50	1.25
2	श्रेणी B	3.50	3.25	1.25	3.25	3.00	1.00	3.00	2.75	0.90	1.00	0.75	0.50
3	श्रेणी C	3.00	2.75	1.00	2.75	2.50	0.75	2.50	2.25	0.75	0.75	0.60	0.30

जिसमें नियत समय के अन्दर प्राप्त आपत्तियों को नियमावली में दिये गये प्राविधानों के अन्तर्गत नगर आयुक्त द्वारा गठित समिति के द्वारा आपत्तिकर्ताओं की सुनवाई करते हुये उक्त आपत्तियों का नियमानुसार निस्तारण कराया निस्तारण उपरान्त श्रेणीवार मौहल्लों का विवरण निम्नवत् है।

क्रम सं०	जोन का नाम	वार्ड	वार्ड का नाम	श्रेणी A	श्रेणी B	श्रेणी C
1.	विजय नगर	1.	क्रिश्चियन नगर बागू	-	-	कृष्णा नगर बागू भीमनगर लड्डुमार कॉलोनी

2.	विजय नगर	2.	सिद्धार्थ विहार	-	-	सिद्धार्थ विहार, राहुल विहार, प्रज्ञा विहार,
3.	विजय नगर	3.	पुराना विजय नगर	सै०-9 के ब्लॉक एच०, जे०के०	पुराना विजय नगर	-
4.	विजय नगर	4.	माता कॉलोनी	-	सै०-12 के ब्लॉक ए०, बी०, सी०डी०	माता कॉलोनी, रोजी कॉलोनी, संघर्ष कॉलोनी
5.	मोहन नगर	5.	गगन विहार	-	-	गगन विहार
6.	सिटी जोन	6.	दीनदयालपुरी	-	नन्दग्राम डी ब्लाक, साई एन्कलेव, लोहिया नगर	विकलांग कालोनी, दीनदयालपुरी ए व बी-ब्लाक बोम्बे कॉलोनी योजना,
7.	विजय नगर	7.	बिहारीपुरा सुदामापुरी	-	-	सुन्दरपुरी, रघुनाथपुरी, नयी बस्ती
8.	सिटी जोन	8.	नेहरू नगर-॥	नेहरू नगर सी, डी, ई, व एफ ब्लाक,	लक्ष्मी विहार कालोनी क्वार्टर, मालीवाड़ा	बारादरी, दीनागढ़ी, रामागढ़ी, प्राणगढ़ी,
9.	सिटी जोन	9.	शिबबनपुरा पटेल नगर	न्यू आर्य नगर, पटेल नगर ए, बी, सी, डी, ब्लाक, पटेल नगर-॥	-	शिबबनपुरा, तीन मंजिले क्वार्टर, बौन्झा,
10.	मोहन नगर	10.	डी.एल.एफ.	डी.एल.एफ. (दिलशाद गार्डन), विक्रम इन्कलेव	-	पप्पू कालोनी
.....
.....
95.	सिटी जोन	95.	प्रेम नगर कैला	-	-	भट्टाजात, प्रेमनगर, कैला चौक, सादिक की पुलिया
96.	सिटी जोन	96.	नेहरू नगर-III	अम्बेडकर रोड बीच वाला हिस्सा, सलेकचन्द कालोनी, नेहरू नगर-III बी, सी, डी, ई, एफ. (आंशिक भाग) एम.एल.के.एन-ब्लाक, अशोक नगर, नेहरू नगर-॥ ए.बी-ब्लॉक, जी.डी.ए. कालोनी	राम नगर, कल्लूपुरा	-
97.	वसुन्धरा	97.	रामप्रस्थ	रामप्रस्थ, चन्द्रनगर	-	-
98.	वसुन्धरा	98.	अहिंसाखण्ड	अहिंसाखण्ड, नीतिखण्ड-3	-	-
99.	वसुन्धरा	99.	वैभवखण्ड-1	वैभवखण्ड-1	-	-
100.	वसुन्धरा	100	शिप्रा सन सिटी	शिप्रा सन सिटी (वैभवखण्ड-2)	-	-

नोट:- जिन वार्डों के किसी मौहल्ले को श्रेणीवार सूची में शामिल नहीं किया गया है उन्हें पूर्ण विकसित, विकसित एवं अर्द्धविकसित स्थिति के आधार पर प्रथम श्रेणी, द्वितीय श्रेणी, तृतीय श्रेणी में माना जायेगा।

उक्त निर्धारित दरों को अंतिम रूप से लागू किये जाने हेतु प्रस्ताव तैयार कर मा० कार्यकारिणी व

मा० सदस्य के समक्ष रखा गया लेकिन प्रस्तावित दरों को लागू किये जाने के संबंध कोई चर्चा/विचार विमर्श नहीं किया गया। तद्परांत उक्त दरों को लागू किये जाने हेतु प्रमुख सचिव नगर विकास उ०प्र० शासन लखनऊ को पत्र प्रेषित करते हुये नगर राजस्व हित में प्रस्तावित दरों को लागू किये जाने हेतु प्रस्ताव प्रस्तुत किया गया जिस पर शासन के द्वारा अपने पत्र सं०-2143/नौ-9-2023-87 ज/22 दिनांक 27.10.2023 स्वस्तर से सम्पत्तिकर की न्यूनतम मासिक किराया की वर्गफुट की दरों को निर्धारित करने हेतु अनुमोदन प्रदान किया गया, जिसे अन्तिम रूप से प्रकाशित करते हुये वित्तीय वर्ष 2024-25 के दिनांक 01.04.2024 से लागू किया जाता है।”

54. A bare perusal of the aforesaid tabulated depiction clearly indicates that extensive exercise was undertaken by the Municipal Commissioner covering all the localities in district Ghaziabad spread in 100 wards of the Corporation and the determination was based upon disposal of the objections received by the Corporation after providing opportunity of hearing to the objectors and in consonance with statutory provisions. Therefore, it cannot be said that determination made is cursory or arbitrary in nature.

55. Further, the petitioners have not been able to come out with any specific submission or suggestion as to what better methodology or concrete formula could have been adopted or exercise undertaken by the Municipal Commissioner for such determination. Therefore, we are of the view that the determination of ‘MMRR’ cannot be said to be excessive, rather in accordance with the categorization/classification of the properties, as provided under the Rules.

56. Now, to deal with the rival submissions made with reference to the words ‘street’ and ‘road’, it would be necessary to refer the definition of ‘street’ as contained in Section 2(74) of the Act. The same reads as under:-

“2(74)- "street" includes any highway and any causeway, bridge, viaduct, arch, road, lane, foot-way, sub-way, court, alley or riding path or passage, whether a throughfare or not, over which the public have a right of passage or access or have passed and had access uninterruptedly for a period of twenty years; and, when there is a footway as well as a carriage way in any street, the said term includes both;”

57. A bare perusal of the definition of ‘street’ clearly indicates the

legislative intent so as to include therein not only the road but also highway, causeway, bridge, viaduct, arch, lane, foot-way, sub-way, court, alley or riding path or passage. The definition being inclusive in nature, submission that the Commissioner is competent to take any decision only qua 'street' and not qua 'road' and, therefore, determination of 'MMRR' based upon the width of road is contrary to the provisions of the Act, has no substance at all and is discarded.

58. In this regard, we may also refer to Agenda No. 139 taken up in the Board meeting dated 07.03.2025 wherein the issue of determination of 'MMRR' based upon width of road was taken up. For a ready reference the said Agenda, which was unanimously approved, is reproduced as under:-

“प्रस्ताव संख्या 139

नगर निगम अधिनियम 1959 की धारा 174 तथा उ०प्र० नगर निगम (सम्पत्तिकर) नियमावली 2000 के नियम 4 (1) के अनुसार सड़क की चौड़ाई को तीन भागों में वर्गीकृत किया गया है।

- A. 24 मी० से अधिक चौड़ी सड़क
- B. 12 से 24 मी० के मध्य चौड़ी सड़क
- C. 12 मी० से कम चौड़ी सड़क

उक्तानुसार सम्पत्तिकर निर्धारण हेतु मासिक किराया दरों का भवन की प्रकृति के अनुसार निर्धारण होता है, परन्तु सड़क की चौड़ाई के सम्बन्ध में मत-भिन्नता रहती है। उक्त को स्पष्ट करने हेतु सड़क की चौड़ाई नियत करने का मार्गदर्शक सिद्धान्त प्रतिपादित होना आवश्यक है। यहाँ यह स्पष्ट करना है कि वार्षिक मूल्यांकन निर्धारित करने हेतु सड़क की चौड़ाई का मापदण्ड लेने के पीछे भवन की अव्यवस्थिति के अनुसार किराया दरों का निर्धारण है। यदि भवन अधिक चौड़ी सड़क पर स्थित है तो उस भवन का स्थान के अनुसार मूल्य अधिक होगा। इस प्रकार वार्षिक मूल्यांकन भी अधिक होगा। उपरोक्त अवधारणा के अनुसार भवन के मुख्य द्वार के सामने स्थित सड़क की चौड़ाई का निर्धारण करते समय सड़क के विन्यास, जिसमें आवागमन हेतु निर्धारित सड़क, फुटपाथ, डिवाइडर, सैन्ट्रल वर्ण, ग्रीन बेल्ट, पार्किंग स्थान (यदि सड़क से संलग्न है), सर्विस रोड और आवागमन हेतु निर्धारित सड़क के बीच का नाला नाली, मुख्य सड़क से भवनों में प्रवेश हेतु संलग्न सर्विस रोड आदि को समवेत मानते हुये सड़क की चौड़ाई नियत करना समीचीन होगा। यहाँ यह भी स्पष्ट करना है कि महा योजना में सड़क की चौड़ाई में यह सभी घटक सम्मिलित होते हैं। सड़क के चौड़ाई के निर्धारण में स्पष्टता हेतु महायोजना में दर्शायी गयी सड़क की चौड़ाई ही मानक होगी। जहाँ पर महायोजना में सड़क की चौड़ाई का विवरण उपलब्ध नहीं है ऐसी स्थिति में विकास प्राधिकरण द्वारा स्वीकृत नक्शे में प्रदर्शित सड़क की चौड़ाई या

सार्वजनिक स्थान पर फुटपाथ समेत सड़क की चौड़ाई होगी। साथ ही गाजियाबाद नगर निगम सीमान्तर्गत स्थित समस्त हाईराईज्ड बिल्डिंग/सोसायटी, टाउनशिप में स्थित फ्लैटों के कर निर्धारण हेतु सड़क की चौड़ाई का निर्धारण उक्त आवासीय योजना के स्वीकृत मानचित्र, जिसे विकास प्राधिकरण अथवा आवास विकास के द्वारा स्वीकृत किया गया है, में दर्शायी गयी सड़क की चौड़ाई के आधार पर किया जायेगा। अतः उक्त प्रस्ताव मा० सदन के समक्ष सादर विचारार्थ एवं अनुमोदनार्थ प्रस्तुत है।”

59. The challenge laid by the petitioners to the determination of ‘MMRR’ corresponding to width of road is essentially a challenge to a part of the proceedings of Board meeting dated 07.03.2025 and though we cannot approve challenge in part to any Board meeting or decision taken therein, even if, for the sake of challenge, we examine the contents of Agenda No. 139, we find that no independent decision qua the road was taken in the said Board meeting. Rather, the discussion was made with reference to width of the road described in the master plan and, in case the details of width were not available in the master plan, aid was decided to be taken based upon the width shown in the maps sanctioned by the Development Authority. Therefore, in our opinion, the decision was to standardise the component of width of road while determining ‘MMRR’ so as to keep it in consonance with the already decided parameters, either as per the master plan of the city or as per the record of the Development Authority. Therefore, we do not find any error in Agenda No. 139 on this score. Consequently, the challenge to the same stands discarded.

60. One of the main contentions raised on behalf of the petitioners is that since Section 174(1)(b) read with Rule 4-A obliges the Municipal Commissioner to determine/work out the ‘MMRR’ **‘once in every two years’**, the impugned decision to enforce revised taxes based upon the determination of ‘MMRR’ made before expiry of two years, is unsustainable. The said contention, when critically examined based upon the record position, reveals that the exercise as per Section 174(1)(b) read with Rule 4-A was previously undertaken by the respondents in the year 2001 only. Thereafter, whatever revision in ‘MMRR’ was made from time to time, the same was not based upon any such exercise which has now been undertaken in consonance with the provisions of law, rather the documents

reflect that 'MMRR' was revised from time to time based upon percentage increase therein. For example, in the year 2015-16, for RCC buildings situated on roads having less than 12 metres width, 'MMRR' was increased as Rs.1.10, in the year 2018, it was increased to Rs.1.27, in the year 2021, the said figure reached to Rs.1.46 and, lastly, w.e.f. 01.04.2023, the 'MMRR' was indicated as Rs.1.61.

61. In view of the above, whatever revisions were made from time to time, the same cannot be said to be strictly in consonance with the statutory requirements of Section 174(1)(b) read with Rule 4-A, rather such periodical revision/enhancement was based upon the wisdom of Municipal Commissioner or periodic decisions taken by the Board. There is nothing on record to show that, at any point in time, any such decision providing 5% increase in 'MMRR' was ever challenged or objected to by anyone; probably for the reason that such enhancement/revision being insignificant in nature, was not adversely affecting either the Corporators or even the public at large. The exercise in accordance with the provisions of the Act and the Rules having been undertaken after a passage of over 20 years, the challenge laid has no substance.

62. Now we proceed to deal with the contention raised on behalf of the petitioners that vide Agenda No. 54 in the Board meeting dated 09.10.2024, the decision to enhance property tax as per circle rate was turned down and, vide Agenda No. 113 placed in the Board meeting dated 07.03.2025, the previous Agenda No. 54 was approved and, therefore, no revision/enhancement could be done.

63. On perusal of record, we find that though there was an agenda to the aforesaid effect, a contrary decision was taken in the meeting dated 07.03.2025 wherein it was resolved that whatever decision was taken by the State Government, the same would be unanimously accepted. Even otherwise, when the matter was forwarded by the State Government to the Financial Resources Development Board, the said Board, vide communication dated 28.01.2025, with reference to Section 537 of the Act,

held that the Agenda No. 54 passed on 09.10.2024 does not appear to be as per law. Accordingly, the said agenda did not survive further and, ultimately, it was the State Government whose directions/guidelines issued to the Municipal Commissioner vide communication dated 06.03.2025 had to prevail, whereby the Commissioner was left at his own wisdom to proceed in accordance with the provisions of Section 174 of the Act read with Rules 4-A and 4-B of the Rules.

64. Now while dealing with the submissions made on behalf of the State that as per Section 116(2) of the Act, in the event any doubt or dispute arises as to which Corporation Authority in a particular function belongs, the Municipal Commissioner may refer the doubt or dispute to the State Government whose decision shall be final, we find that as per Section 5 of the Act ‘Corporation Authorities’ include the Corporation, the ward committees, an executive committee, the Mayor, a Development Committee and a Municipal Commissioner and one or more Additional Municipal Commissioners. Therefore, when the dispute had arisen in the mind of the Municipal Commissioner being a Corporation Authority, in decision making qua revision in tax based upon the determination of ‘MMRR’, the matter was rightly referred to the State Government. For reference, we may reproduce Sections 116 and 5 of the Act to examine the action of the State in this matter.

“116. Division of functions between Corporation authorities.- (1)

The respective functions of the several Corporation authorities shall be such as are specifically prescribed by or under this Act.

(2) In the event of any doubt or dispute arising as to which Corporation authority any particular function belongs, the Municipal Commissioner may, and if the Mayor so requires shall, refer the doubt or dispute to the State Government whose decision shall be final and not open to question in any court of law.

5. Corporation authorities.- The Corporation authorities charged with carrying out the provisions of this Act for each City shall be-

- (a) the Corporation;
- (aa) the Ward Committees];
- (b) an Executive Committee of the Corporation;
- (bb) The [Mayor];

- (c) a Development Committee of the Corporation;
- [(d) a Municipal Commissioner and one or more Additional Municipal Commissioner appointed for the Corporation under this Act]; and
- (e) in the event of the Corporation establishing or acquiring electricity supply or public transport undertaking or other public utility services, such other committee or committees of the Corporation as the Corporation may with the previous sanction of the State Government establish with respect thereto.”

65. It is, therefore, apparent that the State Government, on a reference made to it, had required the Municipal Commissioner to take a decision on his own as per statutory mandate contained under Section 174(1)(b) and Rule 4-A and reference made to the State Government and its decision received by the Municipal Commissioner, being in consonance with Section 116(2) of the Act, we do not find any error in such decision and, therefore, as the State is not objecting to revision in the property taxes as a result of determination of ‘MMRR’ or even otherwise, there appears to be no substance in the challenge laid by the Corporators.

66. As far as relief regarding rebate is concerned, we do not find any such foundation in the petition or even the provision whereunder rebate is granted except as per Rule 4-C(3) of the Rules which indicates that rebates shall be admissible in annual value and payable tax in accordance with the provisions prescribed in the Act. The petitioners have, though referred to Section 174(2)(a) of the Act so as to claim relief extending the benefit of rebate on property tax, we do not find any such stipulation in the said provision. Nevertheless, considering the arguments advanced that vide earlier resolution dated 07.06.2016, the Board had decided to grant certain rebates, we find that the same was only with respect to deposit of house tax based upon a time schedule. Therefore, we do not find any ground to issue a mandamus directing the respondents to extend the benefit of rebate and infact the relief of extending the rebate is tangent to the frame of the writ petition and the same stands discarded.

Sanctity of challenge laid by Corporators

67. We also find from various letters and correspondences on record

that the petitioners and one or other Corporator(s) was having clash of interest with the decisions taken by the Mayor in one or the other meeting or the proceedings thereof. The resentment and displeasure shown by them over a period of time wherein, on the one hand, the Municipal Commissioner was undertaking the exercise qua determination of 'MMRR' in furtherance of the guidelines issued by the State Government in exercise of powers under Section 116 of the Act, the petitioners, on the other hand, were acting in such a manner so that the proceedings may not be finalized and even when the Mayor proceeded to take up the matter, all kind of opposition was raised.

68. We need not go into the details of communications, letters and correspondences made in between petitioners, Mayor and the Municipal Commissioner as discussion on that line would unnecessarily overstretch this judgment; however, one thing is apparent on the face of record that the petitioners never wanted any exercise to be undertaken, rather they were somehow interested in either maintaining the property tax rates as it were or its revision/enhancement not based upon any fresh exercise according to law but as per previous arrangement like 5% per year increase which was almost negligible.

69. Very recently, the Hon'ble Supreme Court, in the case of **Akola Municipal Corporation (supra)** dealt with an identical matter arising from a Division Bench judgment of the High Court of Judicature at Bombay, passed in a public interest litigation, wherein revision of property tax of the concerned Municipal Corporation for the year 2017-18 to 2021-22 was challenged. The said petition was filed by a Corporator in the said Corporation. The High Court interfered with the policy decision of the Corporation and granted reliefs as claimed. On challenge laid by the Municipal Corporation before the Hon'ble Supreme Court, not only the nature of relief claimed by a Corporator through a PIL was examined by the Hon'ble Supreme Court from the point of view of his locus, but also the scope of judicial review in economic policy matters was extensively dealt

with.

70. The Hon'ble Supreme Court, in paragraph 12 of the report, referred to the averment made by the respondent-petitioner wherein he had stated that he was a practising doctor having M.D. (medicine) degree, a social worker and Corporator of the Akola Municipal Corporation. The Hon'ble Supreme Court observed that the petitioner had not claimed that he was representing the entire populous of Akola city and, in paragraph 14 of the judgment, it was observed that the petitioner had never claimed that he had been authorized or acting on behalf of the citizens of the Akola city for challenging the action of the Corporation in revising the tax structure and, apparently, he had raised his individual grievance against the action of increase of tax by filing writ petition under the garb of a public interest litigation.

71. Though, in the present case, learned Senior Counsel appearing for the petitioners has referred to the plea raised in rejoinder affidavit that the writ petition has been filed in 'representative capacity', a bare perusal of 4th paragraph of the rejoinder affidavit indicates that as to whom the three petitioners (Corporators) were representing, has not been indicated; that is to say as to whether they are representing the entire city of Ghaziabad or have been authorized by the residents to lay a challenge to the revision in property taxes. Therefore, the reasoning recorded by the Hon'ble Supreme Court in the case of **Akola Municipal Corporation (supra)** as regards the locus of a Corporator to lay such a challenge, applies in full force in the present case also and it is held that the challenge laid by three Corporators in purported public interest, cannot be said to be actually laid in public interest, rather the record reflects that there was conflict of interests between the Corporators, Municipal Commissioner and Mayor and, repeatedly, one or the other resolution passed in one or other meeting of the Board was either opposed or not permitted to take effect.

72. We also find that in the case of **Akola Municipal Corporation (supra)** also, the taxes had remained at a stagnant rates for almost 16 years

and when statutory exercise was undertaken by the Corporation concerned for revision of tax rates after such a long period of time and the High Court interfered with the decision, the Hon'ble Supreme Court upset the decision of the High Court by observing that the High Court had transgressed the permissible limits of judicial review in economic policy decision taken by the Corporation. It was further observed by the Hon'ble Supreme Court that in absence of any challenge to the substantive authority of the Corporation to revise municipal taxes, the scope of scrutiny before the High Court stood confined solely to examine as to whether the statutory procedure had been complied with and the High Court ought not to have embarked upon a roving inquiry into the merits or wisdom of the decision to revise tax rates.

73. Though learned Senior Counsel for the petitioners tried to contend that even the Hon'ble Supreme Court had, in the case of **Akola Municipal Corporation (supra)**, observed that unless the procedure adopted by the Corporation was *ex-facie* arbitrary, perverse, unreasonable or in derogation of the governing statutory provisions, interference could not be made and in the present case, since the procedure adopted by the Municipal Commissioner is *dehors* the provisions of the Act and the Rules, the ratio laid down in the case of **Akola Municipal Corporation (supra)** has to be seen in that light, we are not inclined to accept the said submissions as we have already found that the exercise undertaken by the Municipal Commissioner was strictly in consonance with the statutory provisions.

74. In the case of **Shiv Sewak Singh (supra)**, a coordinate Bench of this Court extensively dealt with challenge laid by the elected Corporators, Ex-Officio Corporators and Ex-Corporators of Nagar Nigam, Allahabad to increase in the property tax levied on the properties for the year 2011-12. Though the challenge was confined to adoption of Geographical Information System (GIS) in identifying and calculating the property tax, fixation of annual value of the properties, enhancement of monthly rate of rent and assessment of house tax coupled with resolutions passed by the Corporation, the matter was extensively dealt with by this Court. It was found that

monthly rates of rent notified by the Municipal Commissioner were valid and assessment lists were treated to be final and conclusive under Section 212 of the Act. The resolutions passed by the Corporation and also exercise of powers of the State Government in that matter was also found not faulty as is the situation in the present case also.

75. The judgment relied on in the case of **Anjum M.H. Ghaswala (supra)** is of no assistance to the petitioners as the same was passed totally on different context arising out of Income Tax Act where subject matter was the powers of Settlement Commission to grant relief under CBDT Circulars and though submissions were made that powers vested in any authority have to be exercised in a particular manner as prescribed in the statute, since we have not found any flaw or illegality in exercise of powers by the Municipal Commissioner in revising/enhancing the property taxes based upon determination of 'MMRR', the judgment cited has no application in the facts of the case. Similar is the position with regard to the other decision cited on the same lines in the case of **Dipak Babaria (supra)** and the same is also of no help to the petitioners.

CONCLUSION

76. In view of the detailed discussion made above, we neither find any error in determination of 'MMRR' based upon categorization/classification of the properties nor any illegality in the impugned decision of the respondents to revise/enhance the property taxes based upon 'MMRR'. The exercise undertaken by the respondents is found to be fully in consonance with the statutory provisions requiring no interference by this Court.

77. The petition has no substance and the same is, therefore, **dismissed**.

(Kshitij Shailendra, J) (Arun Bhansali, CJ)

February 25, 2026

AKShukla/-