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IN THE SUPREME COURT OF INDIA
ORIGINAL CIVIL JURISDICTION
J.B. PARDIWALA; J., R. MAHADEVAN; J.
WRIT PETITION (Civil) NO. 22 OF 2014; March 13, 2026
MIZO CHIEF COUNCIL MIZORAM, THR. PRESIDENT SHRI L. CHINZAH *versus* **UNION OF INDIA & ORS.**

Constitution of India – Article 32 – Writ Petition – Delay and Laches – Right to Property – Writ petition filed by Mizo Chief Council seeking compensation for lands allegedly acquired without due process in 1954-55 - Respondents raised preliminary objection regarding inordinate delay of nearly six decades - The Supreme Court reiterated that while Article 32 is a fundamental right, it is not immune from general principles of law and reasonable procedure - Petitions agitating stale claims ought not to be entertained to prevent disturbing settled positions and causing prejudice to third parties - Supreme Court clarified that the operative test is not "unreasonable delay" but "unexplained delay.

Mitigating Factors for Delay - Supreme Court observed that delay is not a rigid rule of law but a flexible rule of practice guided by judicial discretion - In the present case, Supreme Court declined to dismiss the petition at the threshold despite a 60-year delay due to: i. The unique historical trajectory and political insurgency in Mizoram; ii. Continuous agitation of claims by the Chiefs before various forums; iii. Official assurances and conduct of the State Government that engendered a legitimate expectation of an amicable resolution, thereby dissuading immediate litigation.

Right to Property and Burden of Proof – i. Burden of Proof - In cases alleging fundamental rights violations, the initial burden lies on the petitioner to establish the existence and invasion of such rights; ii. Title over Land - held that the petitioner failed to prove that Mizo Chiefs were absolute owners of the land under the British regime - Documents (boundary papers) suggested they functioned as administrative heads rather than proprietary owners; iii. Privy Purses - rejected the plea of discrimination comparing Mizo Chiefs to rulers of Princely States, noting that privy purses were outcomes of specific pre-constitutional contractual arrangements and not a legally enforceable fundamental right - the petitioner failed to establish a clear title to the lands or a specific breach of fundamental rights under the erstwhile Articles 19(1)(f) and 31, the petition was dismissed. *[Relied on Tilokchand and Motichand & Ors v. H.B. Munshi & Anr (1969) 1 SCC 110; Rabindranath Bose & Ors v. Union of India & Ors (1970) 1 SCC 84; Assam Sanmilita Mahasangha & Ors vs Union of India & Ors (2015) 3 SCC 1; G.P. Doval & Ors v. Chief Secretary, Government of U.P. (1984) 4 SCC 329; Paras 27-64]*

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JUDGMENT

J.B. PARDIWALA, J.

For the convenience of exposition, this judgment is divided into the following parts:

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1. The present writ petition has been filed by the Mizo Chief Council, through its President, on behalf of the tribal chieftains of the erstwhile Lushai Hills district (present-day State of Mizoram) and their legal heirs. The primary grievance of the petitioner is that the respondents seized/acquired the lands of these chieftains without paying due compensation. The petitioner contends that this deprivation violated the fundamental rights of the Mizo Chiefs, specifically the right to property, which was guaranteed at the time of the acquisition.

A. FACTUAL MATRIX

2. To understand the dispute before us, it is indispensable to gauge how the society was structured and organised in the Lushai Hills district, both before and after the area was annexed and brought under the control of the British administration. It is pertinent to note that the limited objective here is to outline the broad administrative structure and the players involved, so as to provide the necessary context for evaluating the legal questions raised in the present petition.

3. Historically, Mizo society was centred around the institution of the chiefs. The petitioner asserts that these chiefs were the absolute owners of the lands upon which their respective villages were situated. This territory, referred to as the chieftain's "***Ram***", was administered by the chief, who exercised executive and judicial authority over it. It is further claimed that the chief allotted farmland from this *Ram* to the villagers and, in return, was entitled to receive "***Fathang***", a customary tribute comprising a portion of the annual agricultural produce, primarily paddy.

4. Thereafter, the British made inroads and annexed the Lushai Hills district in the 1890's. The administration of the district was vested in the Chief Commissioner of Assam, the Superintendent of the Lushai Hills district, his assistants, and the chief and headmen of the villages. Thus, following the British annexation, the colonial administration retained the Chieftainship system for administrative convenience. Chiefs were appointed to ensure good governance, and in return, they enjoyed the privilege of chieftainship. All chiefs were responsible for controlling their villages in every way. Thus, the day-to-day administration of the villages was left largely in the hands of the chief. The chief was entitled to collect *Fathang* and other taxes and, in turn, obliged to submit a portion of his collections to the British officers.

5. It was, however, not the case that the Chiefs operated in complete freedom. The chiefs entered into an understanding called "**Ramrilekha**" with officials of the British government, whereby the boundaries or territorial extent of a chief's authority and influence were roughly demarcated, and the chiefs were made to pledge loyalty to the British government (hereinafter referred to as "**boundary paper**"). These boundary papers also stated that the area specified therein would be the Chiefs' *Ram* as long as they live, subject to them remaining loyal to the government, and that after their death, the superintendent shall appoint their successor, who in all probability would be their children.

6. After the British entered the picture, while the chiefs retained administrative flexibility, their authority dwindled and was fettered by the British officials' supervision. The Superintendent held a swathe of powers, such as the authority to: (i) regulate the succession to villages of deceased chiefs, to appoint guardians to minor chiefs, and to appoint chiefs or headmen (subject to the chief commissioner's decision and due regard being had to the Lushai custom and hereditary rights of existing families of chiefs) (ii) authorise the partition of existing villages to form new villages and (iii) punish and dispose of chiefs for misconduct, subject to the Chief Commissioner's confirmation. Further, the formation of new villages without the Superintendent's prior sanction was forbidden.

7. The administration of the Lushai Hills district continued on much the same lines until independence. Although supervised, the British government recognised that the chiefs contributed to the effective administration of the Lushai Hills district.

8. When the Lushai Hills district was formed by amalgamating tracts known as North and South Lushai Hills in 1898, the district was governed by the Assam Frontier Tracts Regulation, 1880, and notifications were issued under the provisions of the aforesaid Regulation and the Scheduled District Act, 1874. Moreover, in 1936, the Lushai Hills district was designated as an excluded area under the Government of India Act, 1935. However, it is essential to note that there appears to be no single, comprehensive legislation that covered all aspects of governance in the region during this period of British Rule. Instead, the Lushai Hills district seems to have been administered through a patchwork of notifications, rules, and standing orders issued from time to time.

9. Post-independence, the Lushai Hills district was administered as part of the state of Assam. Under the Sixth Schedule of the Constitution, the Lushai Hills district came to be recognised as an autonomous district and was governed by district and regional councils, in accordance with the provisions in the Sixth Schedule. Thereafter, the Lushai Hills district was renamed the Mizo District *vide* the Lushai Hills District (Change of Name) Act, 1954.

10. In 1954, the Assam Lushai Hills District (Acquisition of Chief's Rights) Act, 1954 (hereinafter "**the Act, 1954**") was passed by the then State of Assam. The Statement of Objects and Reasons of the Act, 1954, read as follows:

"The chief in the Lushai Hills has been exercising certain administrative and judicial functions in respect of village administrative and in recognition of their services inherent to enjoy certain rights and privilege. With the growth of political consciousness, and the establishment of the District Council in the Lushai Hills, there has been an instant demand for the abolition of the system of chief. This can be done only under law providing for the acquisition of the rights of the chiefs in respect of " Ram" (Chief's land) and " Fathang " (Paddy tax) which are in the nature of rights to the property, after payment of compensation. Hence this Bill."

(Emphasis Supplied)

11. The legislature enacted the Act, 1954, with the primary objective of enabling the State to acquire certain rights and interests of the Chiefs in and over the land located in the Lushai Hills district. To effectuate this purpose, the Act, 1954, empowered the State Government to issue a notification declaring that the rights and interests of a Chief in his *Ram*, as specified in the said notification, shall stand transferred to and absolutely vest in the State. Consequent to such transfer and vesting, the Act, 1954 laid down a comprehensive statutory scheme detailing the method for computation and disbursement of compensation, whilst also prescribing a specific adjudicatory procedure to resolve any disputes arising in relation to such compensation. Furthermore, the Act, 1954 mandates that upon such acquisition, all *Ram* shall be administered by the District Council or Regional Council, as the case may be, in accordance with the laws in force at that time. The relevant provisions of the 1954 Act are, for convenience, extracted below:

"Section 2 – Definitions

[...]

2(p) – "Ram" means a tract or tracts of land held by a chief under a Ramrilekha or boundary paper issued by the competent authority

[...]

Section 3 – Notification declaring the vesting of "Ram" in the State

(1) The State Government may, from time to time, by notification declare that the rights and interests of a chief in his Ram specified in the notification shall stand transferred to and vest in the State free from all encumbrances.

[...]

Section 4 – Consequence of such notification

Notwithstanding anything contained in any law for the time being in force or in any agreement or contract expressed or implied, on the publication of the notification referred to in section 3, all rights and interests of the Chief in the Ram shall, save as otherwise expressly provided in this Act, cease and shall vest absolutely in the State free from all encumbrances in accordance with the provisions of this Act with effect from the agricultural year next following the date of publication of such notification.

Section 5 – Compensation how to be paid

No compensation to any chief whose rights and interests in his Ram vest in the State under the provisions of this Act shall be payable except as provided for in this Act.

Section 6 – Settlement of Rams

(1) The District Council or the Regional Council, as the case may be shall take over charge of any Ram, the rights and interests of the chief in which vest in the State.

(2) All the Rams shall be administered by the District Council or the Regional Council, as the case may be, in accordance with the law for the time being in force in the Lushai Hills District."

(Emphasis Supplied)

12. On March 23, 1955, a notification was issued in exercise of the powers conferred by Section 3(1) of the Act, 1954, declaring that the right and interest of the chiefs in the *Ram* specified in the Schedule thereto would stand transferred to and vested in the State free from all encumbrances (hereinafter referred to as "**impugned notification**").

13. Thereafter, the title/heading of Section 3 of the Act, 1954, was amended by the Assam Mizo District (Acquisition of Chief's Rights) (Amendment) Act, 1955, from

"*Notification declaring the vesting of "Ram" in the State*" to *"Notification declaring the vesting in the State of a Chief's rights and interest in his Ram"*.

14. A total of INR 14,78,980/- was paid to the chiefs as compensation under the Act, 1954. The petitioner claims that the compensation paid was limited to the *Fathang* and does not take into account the value of the lands that belonged to the chiefs and were subsequently vested in the State. Thus, no compensation was paid for the lands.

15. After the passing of the Act, 1954, the Mizo chiefs have, over the decades, agitated their claim for compensation in respect of the land that came to be vested with the government before multiple forums. The record shows the plethora of correspondence between representatives of the chiefs and the State and Central Governments on this issue. In fact, the issue was agitated by the petitioner before the Guwahati High Court at least on two occasions. On both occasions, the High Court disposed of the matter without delving into its merits, hoping it would be amicably resolved between the parties. However, no settlement was reached between the parties.

16. In such circumstances referred to above, the petitioner is before this Court with this present writ petition.

17. Further, an intervention application was filed by the Lushai Chief Association, which was allowed *vide* this Court's order dated August 13, 2025.

B. SUBMISSIONS ON BEHALF OF THE PETITIONER AND THE INTERVENOR

18. Broadly stated, the submissions made on behalf of the petitioner and the intervenor are as follows:

a. Historically, the Mizo Chiefs were the absolute owners of the entire tract of land that presently constitutes the State of Mizoram. The traditional Mizo chieftainship system was uniquely distinct from other indigenous landholding systems, which were typically characterised by communal or collective ownership. The Chiefs functioned as the absolute masters and monarchs of their respective domains, holding hereditary, complete, and exclusive proprietary rights over the territory. While the advent of British occupation curtailed certain powers held by the chiefs, the chiefs of the Lushai Hills district retained complete ownership of the territories. That the lands belonged to the chiefs is borne out by the traditional practices of the Mizo people and by the accounts and writings of British government scholars and officials.

b. Post-independence, the chiefs were unlawfully deprived of the said lands without payment of any due compensation. The Act, 1954 was highly circumscribed in its scope. It merely addressed the extinguishment of certain administrative rights and privileges of the Chiefs and did not address the ownership rights that the Chiefs held in the *Ram*. Consequently, the State's actual taking over of the chiefs' territorial lands was an executive action entirely devoid of statutory authority. Since the deprivation of their land was completely without the authority of law, it violated the right to property, which was, at the relevant time, recognised as a fundamental right under Part III of the Constitution. Such an arbitrary action of the State also violates Articles 14 and 21 of the Constitution.

c. Even if this Court were to construe the Act, 1954, as a law which provided for the acquisition of the said lands, the statutory compensation provided and disbursed thereunder was completely 'illusory' and a mere pittance in exchange for the vast tracts of land that the State effectively expropriated and acquired. Such payment of 'illusory' compensation is also violative of the fundamental right to property. Therefore, from whichever angle the issue is looked at, the inescapable conclusion remains that the

fundamental rights of the Mizo Chiefs, especially that of the right to property, were unconstitutionally breached.

d. The State's actions also suffer from the vice of manifest arbitrariness. The Mizo Chiefs stood on an equal footing with the rulers of the erstwhile Princely States. While the Princely rulers across the country were systematically integrated into the Union with the solemn guarantee of privy purses, the Mizo Chiefs were arbitrarily singled out and denied such privileges. Consequently, such actions on behalf of the State constitute a breach of the guarantee bestowed under Article 14 of the Constitution.

e. The respondents have taken contradictory stances, prolonging the issue for many decades under the pretext of resolving it amicably. They cannot contend that the issue is now time-barred. The plethora of correspondence presented shows that the petitioner/Mizo Chiefs have consistently pursued the issue since its inception.

f. Under the Sixth Schedule, the District Council had the exclusive power to make laws regarding the allotment, occupation, or use of land. Thus, the State of Assam (the parent state in 1954) lacked the legislative power to enact the Act, 1954, effectively overriding the District Council's powers.

19. On the basis of the above, the learned counsel prayed that there being merit in their petition, the same may be allowed and: (i) the impugned notification be set aside; and (ii) the chiefs be granted such compensation, as this Court deems fit, by the respondents in lieu of their actions which had violated their fundamental rights.

C. SUBMISSIONS ON BEHALF OF THE RESPONDENTS

20. Broadly stated, the submissions made on behalf of respondent no. 1 (Union of India) and respondent no.2 (State of Mizoram) are as follows:

a. The present writ petition is impractical as the petitioner is virtually seeking compensation for the entire state of Mizoram. Further, Article 32 cannot be invoked to reignite settled matters that reached administrative finality decades ago. The petitioner's claims are hopelessly time-barred.

b. Mizo Chiefs cannot be classified as the absolute owners of the land. Whatever customary authority the Chiefs may have historically wielded, any semblance of absolute proprietary title was extinguished following the advent of the British administration in the Lushai Hills district. The entire district was brought under the supervision of the British officials, and the Chiefs were reduced to mere intermediaries, exercising administrative control over specific tracts of land strictly on the basis of boundary papers issued by the British regime. Further, the area continued to be governed by the rules and regulations established by the British administration till the abolition of the chieftainship after the passing of the Act, 1954, and the issuance of the impugned notification.

c. The petitioner has failed to adduce any cogent documentary or historical evidence to substantiate its lofty and sweeping claims of absolute, hereditary ownership. Therefore, the foundational premise of the petitioner's case, that the Mizo Chiefs were unconstitutionally deprived of their private property, is factually unsubstantiated.

d. The Act, 1954, was enacted solely to disband the traditional chieftainship system and to extinguish the administrative rights and privileges that the Chiefs exercised over their respective *Rams*. Accordingly, the statutory compensation provided for and duly disbursed under the Act, 1954, was intended solely to recompense the Chiefs for the loss of these specific administrative rights. The petitioner's contention that the compensation is 'illusory' is entirely misconceived and falls flat, as it erroneously compares the

compensation amount to the value of land that the Chiefs never legally owned in the first place.

21. On the basis of the above, the learned counsel for the respondents prayed that there being no merit in the present writ petition, the same may be dismissed.

D. ISSUES TO BE DETERMINED

22. Having heard the learned counsel for the parties and having gone through the materials on record, the following questions fall for our consideration:

a. Whether the writ petition is hit by delay and laches?

b. Whether any fundamental rights of the Mizo Chiefs were violated?

E. ANALYSIS

(I) WHETHER THE WRIT PETITION IS HIT BY DELAY AND LACHES?

23. Before adverting to the merits of the rival contentions regarding the alleged infringement of the Mizo Chiefs' fundamental right to property, it is incumbent upon us to address the threshold issue of delay and laches. The respondents have contended that the present petition is barred by a significant lapse of time and that its consideration would unsettle matters that are long settled.

(a) Doctrine of Delay and Laches in Article 32 Petitions

24. To adjudicate this contention, it is apposite for us to examine how this Court has addressed the applicability of the doctrine of delay and laches to petitions under Article 32 of the Constitution of India. The best starting point for any discussion on the doctrine of laches is the often-quoted passage from ***Lindsay Petroleum Co. v. Prosper Armstrong Hurd***, reported in **(1874) 5 PC 221,** which states as follows:

"Now the doctrine of laches in courts of equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as it relates to the remedy."

25. In the Indian legal landscape, this Court's Constitution Bench decision in ***Tilokchand and Motichand & Ors v. H.B. Munshi & Anr***, reported in **(1969) 1 SCC 110,** serves as the primary entry point for any discussion regarding the applicability of the doctrine of laches to petitions filed under Article 32. The seminal issue before the Bench was whether the remedy under Article 32, which itself is a fundamental right, could be fettered by any period of limitation, i.e., whether any time limit could be imposed on petitions under Article 32. While the Court dismissed the petition by a 3:2 majority on merits, the legal principles enunciated regarding the application of the doctrine of laches are of primary importance. The majority held that delay and laches are factors that can be considered in Article 32 petitions, and that this Court is not precluded from declining relief where a petitioner approaches the Court after an inordinate delay. The relevant observations crystallising this view are extracted below:

M. Hidayatullah, C.J (as he then was)

*"**7.** It follows, therefore, that this Court puts itself in restraint in the matter of petitions under Article 32 and this practice has now become inveterate. The question is whether this Court will inquire into belated and stale claims or take note of evidence of neglect of one's own rights for a long time? I am of opinion that not only it would but also that it should. The party claiming Fundamental Rights must move the Court before other rights come into existence. The action of courts cannot harm innocent parties if their rights emerge by reason of delay on the part of the person moving the Court. This principle is well recognised and has been applied by Courts in England and America.*

8. *The English and American practice has been outlined in Halsbury's Laws of England and Corpus Juris Secundum. It has been mentioned by my brethren in their opinions and I need not traverse the same ground again except to say this that Courts of Common Law in England were bound by the Law of Limitation but not the Courts of Chancery. Even so the Chancery Courts insisted on expedition. It is trite learning to refer to the maxim "delay defeats equity" or the Latin of it that the Courts help those who are vigilant and do not slumber over their rights. The Courts of Chancery, therefore, frequently applied to suits in equity the analogy of the Law of Limitation applicable to actions at law and equally frequently put a special limitation of their own if they thought that the suit was unduly delayed. This was independently of the analogy of law relating to limitation. The same practice has been followed in the United States.*

9. *In India we have the Limitation Act which prescribes different periods of limitation for suits, petitions or applications. There are also residuary articles which prescribe limitation in those cases where no express period is provided. If it were a matter of a suit or application, either an appropriate article or the residuary article would have applied. But a petition under Article 32 is not a suit and it is also not a petition or an application to which the Limitation Act applies. To put curbs in the way of enforcement of Fundamental Rights through legislative action might well be questioned under Article 13(3). The reason is also quite clear. If a short period of limitation were prescribed the Fundamental Right might well be frustrated. Prescribing too long a period might enable stale claims to be made to the detriment of other rights which might emerge.*

10. *If then there is no period prescribed what is the standard for this Court to follow? I should say that utmost expedition is the sine qua non for such claims. The party aggrieved must move the Court at the earliest possible time and explain satisfactorily all semblance of delay. I am not indicating any period which may be regarded as the ultimate limit of action for that would be taking upon myself legislative functions. In England a period of 6 months has been provided statutorily, but that could be because there is no guaranteed remedy and the matter is one entirely of discretion. In India I will only say that each case will have to be considered on its own facts. Where there is appearance of avoidable delay and this delay affects the merits of the claim, this Court will consider it and in a proper case hold the party disentitled to invoke the extraordinary jurisdiction.*

11. *Therefore, the question is one of discretion for this Court to follow from case to case. There is no lower limit and there is no upper limit. A case may be brought within Limitation Act by reason of some article but this Court need not necessarily give the total time to the litigant to move this Court under Article 32. Similarly in a suitable case this Court may entertain such a petition even after a lapse of time. It will all depend on what the breach of the Fundamental Right and the remedy claimed are when and how the delay arose.* **S.M. Sikri, J.**

14. Article 32(2) of the Constitution confers a judicial power on the Court. Like all judicial powers, unless there is an express provision to the contrary, it must be exercised in accordance with fundamental principles of administration of justice. [...] I understand that one of the fundamental principles of administration of justice is that, apart from express provisions to the contrary, stale claims should not be given effect to. But what is a stale claim? It is not denied that the Indian Limitation Act does not directly apply to a petition under Article 32.

[....]

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18. [...]The history of these writs both in England and the U.S.A. convinces me that the underlying idea of the Constitution was to provide an expeditious and authoritative remedy against the inroads of the State. If a claim is barred under the Limitation Act, unless there are exceptional circumstances, prima facie it is a stale claim and should not be entertained by this Court. But even if it is not barred under the Indian Limitation Act, it may not be entertained by this Court if on the facts of the case there is unreasonable delay. [...]It is difficult to lay down a precise period beyond which delay should be explained. I favour one year because this Court should not be approached lightly, and competent legal advice should be taken and pros and cons carefully weighed before coming to this Court. It is common knowledge that appeals and representations to the higher authorities take time; time spent in pursuing these remedies may not be excluded under the Limitation Act, but it may ordinarily be taken as a good explanation for the delay.

19. It is said that if this was the practice the guarantee of Article 32 would be destroyed. But the article nowhere says that a petition, howsoever late, should be entertained and a writ or order or direction granted, howsoever remote the date of infringement of the fundamental right. In practice this Court has not been entertaining stale claims by persons who have slept over their rights. There is no need to depart from this practice and tie our hands completely with the shackles imposed by the Indian Limitation Act[....]

R.S Bachawat, J.

39. The next and the more fundamental question is whether in the circumstances the Court should give relief in a writ petition under Article 32 of the Constitution. No period of limitation is prescribed for such a petition. The right to move this Court for enforcement of fundamental rights is guaranteed by Article 32. The writ under Article 32 issues as a matter of course if a breach of a fundamental right is established. Technical rules applicable to suits like the provisions of Section 80 of the Code of Civil Procedure are not applicable to a proceeding under Article 32. But this does not mean that in giving relief under Article 32 the Court must ignore and trample under foot all laws of procedure, evidence, limitation, res judicata and the like. Under Article 145(1)(c) rules may be framed for regulating the practice and procedure in proceedings under Article 32. In the absence of such rules the Court may adopt any reasonable rule of procedure. Thus a petitioner has no right to move this Court under Article 32 for enforcement of this fundamental right on a petition containing misleading and inaccurate statements and if he files such a petition the Court will dismiss it, see Indian Sugars & Refineries Ltd. v. Union of India, 1968 SCC OnLine SC 158. On grounds of public policy it would be intolerable if the Court were to entertain such a petition. Likewise the Court held in Daryao v. State of U.P. that the general principles of res judicata applied to a writ petition under Article 32. Similarly, this Court has summarily dismissed innumerable writ petitions on that ground that it was presented after unreasonable delay.

40. The normal remedy for recovery of money paid to the State under coercion or mistake of law is by suit. Articles 32 and 226 of the Constitution provide concurrent remedy in respect of the same claim. The extraordinary remedies under the Constitution are not intended to enable the claimant to recover monies, the recovery of which by suit is barred by limitation. Where the remedy in a writ application under Article 32 or Article 226 corresponds to a remedy in an ordinary suit and the latter remedy is subject to the bar of a statute of limitation, the Court in its writ jurisdiction acts by analogy to the statute, adopts the statute as its own rule of procedure and in the absence of special circumstances imposes the same limitation on the summary remedy in the writ jurisdiction. On similar grounds the Court of Chancery acted on the analogy of the statutes of limitation in disposing of stale claims though the proceeding in a Chancery was not subject to any express statutory bar, see Halsbury's Laws of England, Vol. 14, page 647, Article 1190, Knox v. Gye. [LR 5 LH 656, 674] Likewise, the High Court acts on the analogy of the statute of limitation in a proceeding under Article 226 though the statute does not expressly apply to the proceeding. The Court will almost always refuse to give relief under Article 226 if the delay is more than the statutory period of limitation, see State of M.P. v. Bhailal Bhai at pp. 273-274.

41. Similarly this Court acts on the analogy of the statute of limitation in respect of a claim under Article 32 of the Constitution though such claim is not the subject of any express statutory bar of limitation. If the right to a property is extinguished by prescription under Section 27 of the Limitation Act, 1963, the petitioner has no subsisting right which can be enforced under Article 32 (see Sobbraj Odharmal v. State of Rajasthan). In other cases where the remedy only and not the right is extinguished by limitation, it is on grounds of the public policy that the Court refuses to entertain stale claims under Article 32. The statutes of limitation are founded on sound principles of public policy. As observed in Whitley Stoke's Anglo-Indian Codes, Vol. 11, p. 940; "The law is founded on public policy, its aim being to secure the quiet of the community, to suppress fraud and perjury, to quicken diligence, and to prevent oppression". In Ruckmaboye v. Lulloobhoy Mottichund [the Privy Council observed that the object of the statutes of limitation was to give effect to the maxim, "interest reipublicoe ut sit finis litium" (co litt 303) the interest of the State requires that there should be a limit to litigation. The rule of res judicata is founded upon the same rule of public policy, see Daryao v. State of U.P. at p. 584. The other ground of public policy upon which the statutes of limitation are founded is expressed in the maxim "vigilantibus non dormientibus jura subveniunt" (2 Co Inst. 690) the laws aid the vigilant and not those who slumber. On grounds of public policy the Court applies the principles of res judicata to writ petitions under Article 32. On like grounds the Court acts on the analogy of the statutes of limitation in the exercise of its jurisdiction under Article 32. [...]

G.K. Mitter, J.

65. The Limitation Acts do not in terms apply to claims against the State in respect of violation of fundamental rights. A person complaining of infraction of any such rights has one of three courses open to him. He can either make an application under Article 226 of the Constitution to a High Court or he can make an application to this Court under Article 32 of the Constitution, or he can file a suit asking for appropriate reliefs. The decisions of various High Courts in India have firmly laid down that in the matter of the issue of a writ under Article 226 the Courts have a descretion and may in suitable cases refuse to give relief to the person approaching it even though on the merits the applicant has a substantial complaint as regards violation of fundamental rights. Although the Limitation Act does not apply, the Courts have refused to give relief in cases of long or unreasonable delay. As noted above in Bhailal Bhai case, it was observed that the "maximum period fixed by the Legislature as the time within which the relief by a suit in a civil court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be measured". On the question of delay, we see no reason to hold that a different test ought to be applied when a party comes to this Court under Article 32 from one applicable to applications under Article 226. There is a public policy behind all statutes of limitation and according to Halsbury's Laws of England (3rd Edn., Vol. 24), Article 330 at p. 181:

"The courts have expressed at least three different reasons supporting the existence of statutes of limitation, namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim and (3) that persons with good causes of action should persue them with reasonable diligence.

66. In my view, a claim based on the infraction of fundamental rights ought not to be entertained if made beyond the period fixed by the Limitation Act for the enforcement of the right by way of suit. While not holding that the Limitation Act applies in terms, I am of the view that ordinarily the period fixed by the Limitation Act should be taken to be a true measure of the time within which a person can be allowed to raise a plea successfully under Article 32 of the Constitution. [...]"

(Emphasis Supplied)

26. A close examination of the aforesaid excerpts reveals a clear judicial consensus: four out of the five learned Judges of the Bench agreed that the remedy under Article 32, though a fundamental right, is not immune from general principles of law and reasonable procedure. Consequently, petitions even under Article 32, seeking to agitate stale claims,

ought not to be entertained. This restraint is largely rooted in the following factors: (i) the law assists those who are vigilant, not those who sleep over their rights; (ii) actions of the courts cannot harm innocent third parties whose rights emerge by reason of delay i.e., entertaining long-dormant claims would disturb the settled position and unjustly prejudice third parties by placing an unreasonable burden on them to defend against claims after a prolonged period had passed (due to loss of evidence and change in context); and (iii) it is essential to put a time limit on proceedings to provide certainty and prevent confusion from cases being in perpetual flux.

27. Further, a perusal of the above extracts reveals that the judicial opinion diverged on the precise yardstick to be applied when determining whether there has been a delay in instituting a petition under Article 32. Some members of the Bench favoured drawing a strict analogy with the periods prescribed under the Limitation Act, 1963, whereas others advocated for a flexible approach. However, all four opinions recognised that Article 32 was not directly fettered by the Limitation Act, 1963, nor was any explicit period prescribed for instituting a petition under Article 32. In this context, the view propounded by Hidayatullah, C.J., emerged as the most pragmatic guide, holding that no fixed time limit could be laid down and that the question of delay is one of discretion to be exercised on a case-bycase basis. According to him, the decision would depend on: (i)whether the petitioner has offered a valid and plausible explanation for the delay, i.e. when and how the delay arose so as to gauge whether or not the delay was avoidable; (ii) whether the delay had affected the merits of the case and (iii) what the breach of fundamental right and the remedy claimed are.

28. In ***Tilokchand*** (*supra*)**,** K.S. Hegde, J., in his opinion, differed from the other four members on the Bench and held that a petition under Article 32 cannot be refused on the ground of laches. His dissent was primarily premised on an apprehension that treating the remedy under Article 32 as discretionary would dilute its status as a guaranteed fundamental right, potentially reducing it to the level of an ordinary civil right. The relevant excerpts of his dissenting opinion are reproduced below:

"77. Our Constitution makers in their wisdom thought that no fetters should be placed on the right of an aggrieved party to seek relief from this Court under Article 32. A comparison of the language of Article 226 with that of Article 32 will show that while under Article 226 a discretionary power is conferred on the High Courts the mandate of the Constitution is absolute so far as the exercise of this Court's power under Article 32 is concerned. Should this Court, an institution primarily created for the purpose of safeguarding the fundamental rights guaranteed under Part III of the Constitution, narrow down those rights? The implications of this decision are bound to be far reaching. It is likely to pull down from the high pedestal now occupied by the fundamental rights to the level of other civil rights. I am apprehensive that this decision may mark an important turning point in downgrading the fundamental rights guaranteed under the Constitution.

I am firmly of the view that a relief asked for under Article 32 cannot be refused on the ground of laches. The provisions of the Limitation Act have no relevance either directly or indirectly to proceedings under Article 32. Considerations which are relevant in proceedings under Article 226 are wholly out of place in a proceeding like the one before us. The decision of this Court referred to in the judgment of Bachawat and Mitter, JJ., where this Court has taken into consideration the laches on the part of the petitioners are not apposite for our present purpose. None of those cases deal with proceedings under Article 32 of the Constitution. The rule enunciated by this Court in State of M.P. v. Bhailal Bhai , is only applicable to proceedings under Article 226. At p. 271 of the report, Das Gupta, J., who spoke for the Court specifically referred to this aspect when he says:

"That it has been made clear more than once that power to relief under Article 226 is a discretionary power."

78. Therefore those decisions are of no assistance to us in deciding the present case. Once it is held that the power of this Court under Article 32 is a discretionary power — that in my opinion is the result of the decision of Bachawat and Mitter, JJ.—then it follows that this Court can refuse relief under Article 32 on any one of the grounds on which relief under Article 226 can be refused. Such a conclusion militates not only against the plain words of Article 32 but also the lofty principle underlying that provision. The resulting position is that the right guaranteed under that article would cease to be a fundamental right."

(Emphasis Supplied)

29. In ***Rabindranath Bose & Ors v. Union of India & Ors.***, reported in **(1970) 1 SCC 84,** when dealing with claims relating to seniority in appointments under a writ petition, a Constitution Bench of this Court, upholding the principle laid down in ***Tilokchand*** (*supra*)**,** reiterated that no relief would be given to petitioners who, without reasonable explanation, approach this Court under Article 32 of the Constitution after inordinate delay. The relevant observations made by this Court are as follows:

"31. But insofar as the attack is based on the 1952 Seniority Rules, it must fail on another ground. The ground being that this petition under Article 32 of the Constitution has been brought about fifteen years after the 1952 Rules were promulgated and effect given to them in the Seniority List prepared on August 1, 1953. Learned counsel for the petitioners says that this Court has no discretion and cannot dismiss the petition under Article 32 on the ground that it has been brought after inordinate delay. We are unable to accept this contention. This Court by majority in Tilokchand Moti Chand v. H.B. Munshi held that delay can be fatal in certain circumstances. [...]

32. The learned counsel for the petitioners strongly urges that the decision of this Court in Tilokchand Motichand case needs review. But after carefully considering the matter, we are of the view that no relief should be given to petitioners who, without any reasonable explanation, approach this Court under Article 32 of the Constitution after inordinate delay. The highest Court in this land has been given original jurisdiction to entertain petitions under Article 32 of the Constitution. It could not have been the intention that this Court would go into stale demands after a lapse of years. It is said that Article 32 is itself a guaranteed right. So it is, but it does not follow from this that it was the intention of the Constitution-makers that this Court should discard all principles and grant relief in petitions filed after inordinate delay.

33. We are not anxious to throw out petitions on this ground, but we must administer justice in accordance with law and principles of equity, justice and good conscience. It would be unjust to deprive the respondents of the rights which have accrued to them. Each person ought to be entitled to sit back and consider that his appointment and promotion effected a long time ago would not be set aside after the lapse of a number of years. It was on this ground that this Court in Jaisinghani case observed that the order in that case would not affect Class II officers who have been appointed permanently as Assistant Commissioners. In that case, the Court was only considering the challenge to appointments and promotions made after 1950. In this case, we are asked to consider the validity of appointments and promotions made during the periods of 1945 to 1950. If there was adequate reason in that case to leave out Class II officers, who had been appointed permanently Assistant Commissioners, there is much more reason in this case that the officers who are now permanent Assistant Commissioners of Income Tax and who were appointed and promoted to their original posts during 1945 to 1950, should be left alone."

(Emphasis Supplied)

30. In ***R.S Deodhar & Ors. v. State of Maharashtra & Ors.***, reported in **(1974) 1 SCC 317,** the respondents raised a preliminary objection contending that the petition under Article 32 ought to be dismissed at the threshold on the ground of gross delay and laches. A Constitution Bench of this Court, however, repelled this contention and reasoned that: (i) the petitioners had offered a valid explanation for the delay; (ii) what was challenged in the petition was not a thing of the past and was still being followed, and thus its

constitutionality should be adjudged; and (iii) the adjudication of the claim would not cause unjust prejudice or deprivation to the respondents. The relevant observations in this regard are extracted below:

*"**10.** The first preliminary objection raised on behalf of the respondents was that the petitioners were guilty of gross laches and delay in filing the petition. The divisional cadre of Mamlatdars/Tehsildars were created as far back as November 1, 1956 by the Government Resolution of that date, and the procedure for making promotion to the posts of Deputy Collector on the basis of divisional select-list, which was a necessary consequence of the creation of the divisional cadre of Mamlatdars/ Tehsildars, had been in operation for a long number of years, at any rate from April 7, 1961, and the Rules of July 30, 1959 were also given effect to since the date of their enactment and yet the petitioner did not file the petition until July 14, 1969. There was a delay of more than ten or twelve years in filing the petition since the accrual of the cause of complaint, and this delay, contended the respondents, was sufficient to disentitle the petitioners to any relief in a petition under Article 32 of the Constitution. We do not think this contention should prevail with us. In the first place, it must be remembered that the rule which says that the Court may not inquire into belated and stale claims is not a rule of law, but a rule of practice based on sound and proper exercise of discretion, and there is no inviolable rule that whenever there is delay, the Court must necessarily refuse to entertain the petition. Each case must depend on its own facts. [...]Here the petitioners were informed by the Commissioner, Aurangabad Division, by his letter dated October 18, 1960 and also by the then Secretary of the Revenue Department in January 1961 that the rules of recruitment to the posts of Deputy Collector in the reorganised State of Bombay had not yet been unified, and that the petitioners continued to be governed by the rules of Ex-Hyderabad State and the Rules of July 30, 1959 had no application to them. The petitioners were, therefore, justified in proceeding on the assumption that there were no unified rules of recruitment to the posts of Deputy Collector and the promotions that were being made by the State Government were only provisional to be regularised when unified rules of recruitment were made. It was only when the petition in Kapoor case was decided by the Bombay High Court that the petitioners came to know that it was the case of the State Government in that petition — and that case was accepted by the Bombay High Court — that the Rules of July 30, 1959 were the unified rules of recruitment to the posts of Deputy Collector applicable throughout the reorganised State of Bombay. The petitioners thereafter did not lose any time in filing the present petition. Moreover, what is challenged in the petition is the validity of the procedure for making promotions to the posts of Deputy Collector — whether it is violative of the equal opportunity clause — and since this procedure is not a thing of the past, but is still being followed by the State Government, it is but desirable that its constitutionality should be adjudged when the question has come before the Court at the instance of parties properly aggrieved by it .It may also be noted that the principle on which the Court proceeds in refusing relief to the petitioner on ground of laches or delay is that the rights which have accrued to others by reason of the delay in filing the petition should not be allowed to be disturbed unless there is reasonable explanation for the delay.[...] Here, as admitted by the State Government in para 55 of the affidavit in reply, all promotions that have been made by the State Government are provisional and the position has not been crystallised to the prejudice of the petitioners. No rights have, therefore, accrued in favour of others by reason of the delay in filing the petition. The promotions being provisional, they have not conferred any rights on those promoted and they are by their very nature liable to be set at naught, if the correct legal position, as finally determined, so requires. We were also told by the learned counsel for the petitioners, and that was not controverted by the learned counsel appearing on behalf of the State Government, that even if the petition were allowed and the reliefs claimed by the petitioners granted to them, that would not result in the reversion of any Deputy Collector or officiating Deputy Collector to the post of Mamlatdar/Tehsildar; the only effect would be merely to disturb their inter se seniority as officiating Deputy Collectors or as Deputy Collectors. Moreover, it may be noticed that the claim for enforcement of the fundamental right of equal opportunity under Article 16 is itself a fundamental right guaranteed under Article 32 and this Court which has been assigned the role of a sentinel on the qui vive for protection of the*

fundamental rights cannot easily allow itself to be persuaded to refuse relief solely on the jejune ground of laches, delay or the like. "

(Emphasis Supplied)

31. This Court, in ***Joginder Nath & Ors v. Union of India & Ors***, reported in **(1975) 3 SCC 459,** relying upon the decisions in ***Tilokchand*** (*supra*), ***Rabindranath Bose*** *(supra),* and ***R.S Deodhar*** (*supra*) respectively, held that the preliminary objection raised on the grounds of delay and laches would not succeed in the facts and circumstances of the case as: first, there was no delay in filing the petition; and secondly, dealing with the petition would not unsettle long standing settled matters. The relevant observation made by this Court is as follows:

"9*. In our opinion on the facts and in the circumstances of this case the preliminary objection raised on behalf of the respondents cannot succeed. The first list fixing the seniority of the Judicial Officers initially recruited to the Delhi Judicial Service was issued on August 2, 1971. This was subject to revision on good cause being shown. Petitioners also, as we shall show hereinafter in this judgment on one ground or the other, wanted their position to be revised in the seniority list. They, however, did not succeed. A revised seniority list was issued on June 2, 1973. The filing of the writ petition was not designedly delayed thereafter. Since the petitioners position in the seniority list visa-vis Respondents 3 to 6 had not been disturbed in the new list dated June 2, 1973 it was sufficient for the petitioners to challenge the list dated August 2, 1971. We shall point out in this judgment that except the promotion to the posts of Additional District Judges, the seniority in relation to which also is under challenge in this writ application, nothing special had happened creating any right in favour of the respondents or no such position had been created the disturbance of which would unsettle the long standing settled matters. The writ application, therefore, cannot be thrown out on the ground of delay in regard to any of the reliefs asked for by the petitioners."*

32. In ***Aflatoon & Ors v. Lt. Governor of Delhi & Ors.***, reported in **(1975) 4 SCC 285**, a Constitution Bench of this Court declined to entertain an Article 32 petition challenging land acquisition proceedings on the ground of inordinate delay and laches. This Court, on the facts of the case, held that the litigants acted in a non-vigilant manner by 'sitting on the fence' for a long period of time while the State completed the acquisition process and thereafter filed the petition at a highly advanced stage. Allowing such a non-vigilant petitioner to pursue the claims after inordinate delay, this Court held, would tantamount to putting a 'premium on dilatory tactics'. The relevant observations made by this Court are as follows:

"9. *Assuming for the moment that the public purpose was not sufficiently specified in the notification, did the appellants make a grievance of it at the appropriate time? If the appellants had really been prejudiced by the non-specification of the public purpose for which the plots in which they were interested were needed, they should have taken steps to have the notification quashed on that ground within a reasonable time. They did not move in the matter even after the declaration under Section 6 was published in 1966. They approached the High Court with their writ petitions only in 1970 when the notices under Section 9 were issued to them. In the concluding portion of the judgment in Munshi Singh v. Union of India, it was observed: [SCC p. 344, para 10]*

"In matters of this nature we would have taken due notice of laches on the part of the appellants while granting the above relief but we are satisfied that so far as the present appellants are concerned they have not been guilty of laches, delay or acquiescence at any stage."

We do not think that the appellants were vigilant.

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11. *Nor do we think that the petitioners in the writ petitions should be allowed to raise this plea in view of their conduct in not challenging the validity of the notification even after the publication of*

the declaration under Section 6 in 1966. Of the two writ petitions, one is filed by one of the appellants. There was apparently no reason why the writ petitioners should have waited till 1972 to come to this Court for challenging the validity of the notification issued in 1959 on the ground that the particulars of the public purpose were not specified. A valid notification under Section 4 is a sine qua non for initiation of proceedings for acquisition of property. To have sat on the fence and allowed the Government to complete the acquisition proceedings on the basis that the notification under Section 4 and the declaration under Section 6 were valid and then to attack the notification on grounds which were available to them at the time when the notification was published would be putting a premium on dilatory tactics. The writ petitions are liable to be dismissed on the ground of laches and delay on the part of the petitioners (see Tilokchand Motichand v. H.B. Munshi and Rabindranath Base v. Union of India)."

(Emphasis Supplied)

33. In ***G.P. Doval & Ors v. Chief Secretary, Government of U.P. & Ors***, reported in **(1984) 4 SCC 329,** this Court, while dealing with the contention that the petitioners had moved the Court after a long unexplained delay, made the following pertinent observation:

"16. A grievance was made that the petitioners have moved this Court after a long unexplained delay and the Court should not grant any relief to them. It was pointed out that the provisional seniority list was drawn up on March 22, 1971 and the petitions have been filed in the year 1983. The respondents therefore submitted that the Court should throw out the petitions on the ground of delay, laches and acquiescence. It was said that promotions granted on the basis of impugned seniority list were not questioned by the petitioners and they have acquiesced into it. We are not disposed to accede to this request because Respondents 1 to 3 have not finalised the seniority list for a period of more than 12 years and are operating the same for further promotion to the utter disadvantage of the petitioners. Petitioners went on making representations after representations which did not yield any response, reply or relief. Coupled with this is the fact that the petitioners belong to the lower echelons of service and it is not difficult to visualise that they may find it extremely difficult to rush to the court. Therefore, the contention must be rejected."

(Emphasis Supplied)

34. The observation made by this Court in ***G.P. Doval*** *(supra)* adds an important dimension to the considerations that ought to be taken into account when deciding whether a petition under Article 32 is barred by delay or laches. This Court, in ***Rabindranath Bose*** *(supra),* ***R.S. Deodhar*** (*supra*), ***Joginder Nath*** *(supra),* and ***Aflatoon*** *(supra)* respectively**,** while deciding whether the petition was barred by delay or laches, scrutinised the issue from the vantage point of conduct and knowledge of the petitioners and whether there would be any disturbance to settled matters. However, in ***G.P. Doval*** *(supra),* it was explicitly recognised that extenuating circumstances inherent to the petitioner's status, such as economic status, can also be one of the factors considered to validly explain a delay in approaching the Court. In essence, this Court acknowledged that the rigours of delay and laches cannot be mechanically applied where the petitioners, by virtue of their status, face genuine impediments in accessing justice.

35. In ***Assam Sanmilita Mahasangha & Ors vs Union of India & Ors***, reported in **(2015) 3 SCC 1,** this Court dealt with a batch of writ petitions under Article 32 challenging Section 6A of the Citizenship Act, 1955. The respondents raised a preliminary objection, contending that since Section 6A was enacted in 1985, a challenge mounted in 2012 was barred by delay and laches. While examining this contention, this Court comprehensively reviewed the jurisprudence on delay and laches in Article 32 petitions, analysing landmark decisions including ***Tilokchand*** (*supra*), ***Rabindranath Bose*** *(supra),* and ***R.S Deodhar*** (*supra*). Echoing our observations above, it was noted that while the broad ratio in

Tilokchand (*supra*) is that an Article 32 petition can be dismissed for delay, no clear majority view emerged on the exact parameters or standard for such dismissal.

36. Crucially, this Court noted that the petitions were filed on behalf of a whole class of people, raised contentions regarding a severe violation of fundamental rights, particularly Articles 21 and 29 of the Constitution, respectively, and also dealt with an issue that was still very much playing out on the ground. Consequently, it was held that such a kind of petition could not be dismissed at the threshold on the ground of delay/laches, as doing so would mean that the Court would be guilty of 'shrinking its constitutional duty'. This Court went further, noting that significant developments have occurred in the landscape of Indian constitutional jurisprudence since this Court's decision in ***Tilokchand*** (*supra*). Consequently, according to the bench, the time had come for this Court to say that, at least when it comes to violations of the fundamental right to life and personal liberty, delay or laches, by itself, without more, would not be sufficient to shut the doors of the court on any petitioner. Regarding the constitutionality of Section 6-A, the court referred the matter to a Constitution Bench for adjudication. The relevant observations made by this Court are as follows:

"21. Article 32 of the Constitution which has been described as the "heart and soul" of the Constitution guarantees the right to move the Supreme Court for the enforcement of all or any of the fundamental rights conferred by Part III of the Constitution. This Article is, therefore, itself a fundamental right and it is in this backdrop that we need to address the preliminary submission.

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27. In Express Publications (Madurai) Ltd. v. Union of India [(2004) 11 SCC 526 : 2005 SCC (L&S) 99] , the employer newspaper wished to challenge paragraph 80 of the Employees' Provident Fund Scheme, 1952, which came into force in 1956. The challenge was made in a writ petition under Article 32, 45 years later in 2001. This was turned down by a Bench of two Judges with a caveat, that if it was the case of the petitioners that with the passage of time, a certain provision had become unconstitutional, then obviously the very passage of time would not amount to delay for which a writ petition would not be entertained.

28. Similarly in Tridip Kumar Dingal v. State of W.B. [(2009) 1 SCC 768 : (2009) 2 SCC (L&S) 119] , a Bench of two Judges held that there is no upper and no lower limit when it comes to an Article 32 petition. It all depends on the breach of the particular fundamental right, the remedy claimed, and how the delay arose. On facts, the petition was turned down as there was an unexplained delay of ten years.

29. In Bangalore City Coop. Housing Society Ltd. v. State of Karnataka, a two Judge Bench of this Court understood the ratio of Tilokchand Motichand as follows:

"[...]

48. The ratio of the aforesaid decision is that even though there is no period of limitation for filing petitions under Articles 32 and 226 of the Constitution, the petitioner should approach the Court without loss of time and if there is delay, then cogent explanation should be offered for the same. However, no hard-and-fast rule can be laid down or a straitjacket formula can be adopted for deciding whether or not this Court or the High Court should entertain a belated petition filed under Article 32 or Article 226 of the Constitution and each case must be decided on its own facts."

30. It will be seen that, in the present case, the petitioners in the various writ petitions represent an entire People—the tribal and non-tribal population of the State of Assam. In their petition, they have raised a plea that the sovereignty and integrity of India is itself at stake as a massive influx of illegal migrants from a neighbouring country has affected this core Constitutional value. That, in fact, it has been held in Sonowal case that such an influx is "external aggression" within the meaning of Article 355 of the Constitution of India, and that the Central Government has done precious little to stem this tide thereby resulting in a violation of Article 355. As a result of this

huge influx, periodic clashes have been taking place between the citizens of India and these migrants resulting into loss of life and property, sounding in a violation of Articles 21 and 29 of the Constitution of the Assamese people as a whole. Not only is there an assault on the life of the citizenry of the State of Assam but there is an assault on their way of life as well. The culture of an entire People is being eroded in such a way that they will ultimately be swamped by persons who have no right to continue to live in this country. The petitioners have also argued that this Hon'ble Court in Sonowal case [has specifically held in para 79 thereof that : (SCC p. 723)

"79. … Bangladeshi nationals who have illegally crossed the border and have trespassed into Assam or are living in other parts of the country have no legal right of any kind to remain in India and they are liable to be deported."

They have also raised a fervent plea that Article 14 also continues to be violated as Section 6-A(3) to (5) are not time bound but are ongoing.

31. Given the contentions raised specifically with regard to pleas under Articles 21 and 29, of a whole class of People, namely, the tribal and non-tribal citizens of Assam and given the fact that agitations on this score are ongoing, we do not feel that petitions of this kind can be dismissed at the threshold on the ground of delay/laches. Indeed, if we were to do so, we would be guilty of shirking our Constitutional duty to protect the lives of our own citizens and their culture. In fact, the time has come to have a relook at the doctrine of laches altogether when it comes to violations of Articles 21 and 29.

32.Tilokchand Motichand is a judgment involving property rights of individuals. Ramchandra Deodhar case , also of a Constitution Bench of five judges has held that the fundamental right under Article 16 cannot be wished away solely on the 'jejune' ground of delay. Since Tilokchand Motichand case was decided, there have been important strides made in the law. Property Rights have been removed from part III of the Constitution altogether by the Constitution 44th Amendment Act. The same amendment made it clear that even during an emergency, the fundamental right under Article 21 can never be suspended, and amended Article 359(1) to give effect to this. In Maneka Gandhi v. Union of India , decided nine years after Tilokchand Motichand , Article 21 has been given its new dimension, and pursuant to the new dimension a huge number of rights have come under the umbrella of Article 21 [for an enumeration of these rights, see Kapila Hingorani (1) v. State of Bihar, para 57]. Further, in Olga Tellis v. Bombay Municipal Corpn, it has now been conclusively held that all fundamental rights cannot be waived (at para 29). Given these important developments in the law, the time has come for this Court to say that at least when it comes to violations of the fundamental right to life and personal liberty, delay or laches by itself without more would not be sufficient to shut the doors of the court on any petitioner. "

(Emphasis Supplied)

37. In ***Citizenship Act, 1955, Section 6-A,*** reported in **(2024) 16 SCC 105,** a Constitution Bench of this Court, of which one of us (J.B. Pardiwala, J.) was a member, addressed the constitutionality of Section 6A of the Citizenship Act, 1955, on reference from the decision in ***Assam Sanmilita Mahasangha*** (*supra*). Surya Kant, J (as he then was), in his leading opinion, dealt with the issue of whether the writ petitions were maintainable in view of the inordinate delay of 27 years. He noted that while the doctrine of laches and the Limitation Act, 1963 served similar underlying purposes, the difference lay in the fact that the doctrine of laches was not rigid in its application, as its application was evaluated on a case-by-case basis. Consequently, since the principle was not an inviolable legal rule, it allows the court to conduct individualised analyses and, in some circumstances, entertain the claims even when they may be delayed, and third-party interests or rights may have been created.

38. According to Surya Kant, J., the claims affecting the public at large or claims challenging the vires of a statute vis-à-vis the Constitution are two such circumstances in which the doctrine of delay and laches would not be strictly applied. On the facts of the

case, Surya Kant J held that both the aforesaid mitigating factors are met and that the petitioners' claims could not be dismissed at the threshold on the ground of laches. J.B. Pardiwala, J., in his separate opinion, concurred with the views expressed by Surya Kant, J., on the issue of delay and laches. The relevant observations made by Surya Kant, J., are as follows:

"66. Hence, it is settled law that the doctrine of laches is not an inviolable legal rule but a rule of practice that must be supplemented with sound exercise of judicial discretion. While courts must ordinarily apply this doctrine in light of the policy reasons discussed before, the doctrine allows the Court to conduct an individualised analysis of each case and entertain claims in the competing interests of justice, even when the claim may be delayed and third-party rights may have been created.

67. We may, however, hasten to clarify that the doctrine of delay and laches is not to be ipso facto excluded where a breach of fundamental rights is alleged. The five-Judge Benches of this Court in Narayani Debi Khaitan v. State of Bihar , Daryao v. State of U.P. and Tilokchand Motichand , and a three-Judge Bench in Amrit Lal Berry v. CCE , have reiterated that even in such like cases the court must see the effect of laches. However, that being said, there may be instances where considerations of justice demand that the court adjudicate on the merits of a case rather than summarily dismissing it based solely on procedural grounds such as delay.

68. One such factual circumstance is when the claim affects the public at large. In Kashinath G. Jalmi v. Speaker , this Court analysed several precedents (including Tilokchand Motichand) and differentiated them by holding that the doctrine of laches cannot be used to expel a claim that is made on behalf of the public. Judicial discretion, while applying this doctrine, must always be governed by the objective of promoting the larger public interest; and if a claim affects the public at large, the Court should go into the merits of the case. Where it is found that denial of consideration on merits is likely to affect society in general and can have a cascading effect on millions of citizens, the Court will carve out an exception and proceed to decide the lis on merits.

69. Another vital circumstance where the doctrine of delay and laches would not be applicable strictly is in matters where the vires of a statute are challenged vis-à-vis the Constitution. This Court has, in the due course of time, accepted the idea of transformative constitutionalism, which conceptualises the Constitution not as a still document cast in stone at the day of its formation but as a living and dynamic body of law, capable of constant updation and evolution as per changing societal mores. Should this Court deny a constitutional challenge solely based on delay, it would effectively establish an arbitrary cut-off beyond which laws could no longer be re-examined in light of changing circumstances. Such a rigid approach cannot be countenanced as changing societal circumstances sometimes necessitate a reconsideration of the status quo — even when the challenge is brought after a considerable lapse of time.

70. To instantiate, a Constitution Bench of this Court in Navtej Singh Johar v. Union of India , held Section 377 of the Penal Code, 1860 to be ultra vires of the Constitution, regardless of the fact that the provision was a part of the statute for over a century. The Court took note of the norms of contemporary society and declared them to be unconstitutional. If the doctrine of laches were to be applied strictly, time would run in favour of a constitutionally invalid statute, which cannot be allowed in the larger interests of justice and the transformative nature of the Constitution.

71. Adverting to the facts of the case, it seems that the two mitigating circumstances mentioned above are directly attracted.

72. First, the petitioners have raised various substantial questions that affect the public at large, including the erosion of the culture of indigenous communities, discrimination against the State of Assam, and the larger perceived threat to the security of the country from immigration. Therefore, instead of being an in personam dispute between two individuals, the questions raised by the petitioners directly or indirectly affect a large citizenry.

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74.Second, since the controversy pertains to the constitutionality of a statutory provision, the doctrine of laches ought not to be applied strictly to bar the claim at the very threshold. As discussed in para 69, such constitutional adjudication cannot be made subject to any straitjacket rule of limitation. Challenges regarding the constitutionality of a statute require the Court to take a liberal approach and permit a certain amount of flexibility. A contrary approach would set a wrong precedent and act as a bar against challenging anachronistic laws that might no longer align with the ideals of constitutionalism. This would constitute an unsound legal principle since oppressive laws should not persist solely because they have been tolerated by society for a certain period.

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78. To conclude, while there has undoubtedly been a considerable delay in filing the instant writ petitions, the doctrine of laches cannot be applied strictly to disbar the claims at the threshold. This is so because the present proceedings raise substantial questions that affect the public at large and the constitutional validity of a statutory provision. If we were to decide otherwise, we would be, in essence, creating an artificial deadline for important constitutional issues. This would give rise to an unfair principle of law in the realm of constitutional adjudication."

(Emphasis Supplied)

(b) Principles Governing the Application of Delay and Laches to Article 32 Petitions

39. A cumulative reading of the aforementioned decisions makes it evident that, in the context of petitions under Article 32, the doctrine of laches operates as a flexible rule of practice rather than a rigid rule of law to be mechanically applied. Its application is anchored in sound judicial discretion, moulded by the specific facts and circumstances of each case. This discretionary approach empowers the Court to perform a crucial balancing exercise by weighing the equity in not allowing stale claims against its paramount constitutional duty to enforce fundamental rights.

40. Furthermore, a conspectus of the above decisions demonstrates that whenever this Court has been called upon to apply the doctrine of laches, its inquiry has consistently been guided by three primary considerations: first, whether there has been an inordinate delay in approaching the Court; secondly, whether the petitioner has provided a cogent and satisfactory explanation for such delay; and thirdly, whether entertaining the belated claim would unsettle settled matters and prejudice third party rights by reopening matters long concluded.

41. It is important to clarify and emphasise that, when applying the doctrine of delay and laches, consideration should be given to the totality of the circumstances affecting both parties, rather than the mere fact of delay. As has been rightly held, the test is not as to the physical running of time.[1] To apply the doctrine strictly based on the quantum of delay would fundamentally alter its core character, transforming it from a flexible, discretionary standard into a rigid rule. Such an approach would effectively convert the equitable doctrine into a rule of statutory limitation, a position contrary to the spirit of this Court's decisions on this issue.

42. When evaluating the totality of circumstances for applying the doctrine of delay and laches to an Article 32 petition, the pivotal considerations, as delineated above, are twofold: (i) whether entertaining the claim would unsettle concluded matters and prejudice third-party rights, and (ii) whether the petitioner has offered a cogent explanation for the delay. At this juncture, it is crucial to appreciate the interplay between these two factors.

[1] See ¶ 13, ***M/s Dehri Rotas Light Railway Company Limited v. District Board Bhojpur & Ors,*** (1992) 2 SCC 598.

Frequently, when a party approaches this Court after a considerable hiatus, adjudicating the claim and granting the relief sought will inevitably unsettle, to some extent, existing arrangements and potentially impact third-party rights.

43. If a rigidly conservative approach were adopted, the mere prospect of such disruption or unsettling of third-party rights would invariably lead to the dismissal of the petition at the threshold. Further, where the delay has been satisfactorily explained, demonstrating an absence of blameworthy conduct or negligence on the part of the petitioner, barring them from pursuing their fundamental rights at the threshold stage on the basis that it will affect third parties would be manifestly unjust, especially in the context of proceedings under Article 32.

44. It is a well-settled proposition that the jurisdiction of this Court under Article 32 is expansive and is not confined to the issuance of traditional prerogative writs, but explicitly encompasses the power to issue any directions, orders, or writs appropriate for the enforcement of fundamental rights.[2] This Court has repeatedly affirmed its constitutional mandate to develop new tools and devise innovative remedies to facilitate the enforcement of fundamental rights.[3] Consequently, the mere possibility of the potential disruption that such relief might cause cannot serve as the sole bedrock for dismissing a petition at the threshold on the ground of laches. Where a petitioner furnishes a cogent explanation for the delay, the court is bound to examine the matter. If the court subsequently determines that the specific relief claimed is unfeasible or would unduly prejudice third-party rights, it would exercise its plenary powers to mould the relief in such a manner that disruption is minimised whilst still ensuring that the fundamental rights of the petitioner are enforced.

45. Flowing from the aforesaid discussion, it is evident that the adequacy of the explanation for the delay constitutes the paramount consideration when determining whether an Article 32 petition ought to be dismissed on the ground of laches. Stated differently, the operative test is not one of 'unreasonable delay' but of 'unexplained delay'. This principle is fortified by the fact that, even in instances where this Court has declined relief to prevent the disruption of crystallised third-party rights, such as in ***Aflatoon*** *(supra)* and others[4], the foundational premise for dismissal was a petitioner's failure to furnish a cogent and satisfactory explanation for the delay.

46. This emphasis on the unexplained delay assumes a heightened significance in writ proceedings where the State is the respondent. Situations frequently arise, like in ***G.P. Doval*** *(supra),* where the delay in invoking Article 32 is at least in part attributable to the State's own conduct, such as prolonged administrative indecision or inertia. In such scenarios, the State cannot be permitted to benefit from its own lethargy by weaponising the doctrine of laches against a petitioner, particularly when it itself has delayed taking a conclusive decision until matters had already attained artificial finality.[5]

47. The evolution of this Court's application and reliance on the doctrine of laches suggests that the apprehensions articulated by Hegde, J., in his dissenting opinion in ***Tilokchand*** (*supra*) are, to a large extent, allayed. The Court has consistently held that the doctrine of laches should not be applied rigidly and that delay and laches cannot be valid defences in cases where circumstances exist which shock the judicial conscience of

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[2] *See* ¶ 14, ***Rashid Ahmed v. Municipal Board, Kairana***, 1950 SCC OnLine SC 16.
[3] *See* ¶ 20, ***Nilabati Behera v. State of Orissa & Ors***, (1993) 2 SCC 746 & ¶ 13, ***Bandhua Mukti Morcha v. Union of India***, (1984) 3 SCC 161.
[4] *See* ¶ 30, ***R.S. Makashi v. I.M. Menon***, (1982) 1 SCC 379 & ¶ 23-25, ***S.S. Moghe v. Union of India***, (1981) 3 SCC 271.
[5] *See* ¶ 17, ***Sukh Dutt Ratra & Anr v. State of Himachal Pradesh & Ors***, (2022) 7 SCC 508.

the Court or where the demand for justice is so compelling that a constitutional court ought to exercise its jurisdiction with a view to promoting justice. [6] Where the circumstances demanded, this Court has proceeded on the notion that there is no "limitation" to doing justice and that the need for finality must be balanced with the need to rectify injustice.[7] Further, as observed in the decision in ***G.P. Doval*** *(supra)*, this Court is not tethered to a purely technical approach to delay. It recognises that a petitioner's inability to approach the court on time may be caused by genuine systemic and practical hardships, rather than mere negligence.

48. The exposition by this Court in ***Assam Sanmilita Mahasangha*** (*supra*) and ***Section 6A - In Re*** (*supra*) further adds a new dimension to the issue of delay and laches in Article 32 petitions. By invoking the aspect of 'public interest', the Court has ensured that important public issues are not held to be beyond the purview of this court's jurisdiction solely on the basis of the fact that there was a delay in bringing the same before the court. Further, by invoking the idea of transformative constitutionalism, the Court has upheld the view that the Constitution is a social document, whose principles and ideals ought to be appreciated and applied dynamically, in line with the changing tides of society. Consequently, delay and laches may not be relevant factors where it is shown that an issue needs to be constitutionally reevaluated owing to the change in circumstances that has ensued.

49. Another crucial facet of transformative constitutionalism, as heralded by this Court in ***Navtej Singh Johar & Ors v. Union of India***, reported in **(2018) 10 SCC 1**, and ***Indian Young Lawyers Association & Ors v. State of Kerala & Ors***, reported in **(2019) 11 SCC 1**, is the Constitution's profound potential to address and correct historical wrongs. Historical injustices are often deeply entrenched in societal structures and arrangements, rendering them self-perpetuating across generations. Correcting such historical injustices forms the fulcrum of the Constitution, specifically Part III, which deals with fundamental rights. The emancipatory power of the Constitution lies precisely in its capacity to break these cycles. It requires constitutional provisions to be interpreted and applied in a manner that actively seeks to rectify these entrenched systemic inequities.

50. In this context, a rigid or mechanical application of the doctrine of delay and laches could inadvertently serve to perpetuate historical wrongs, effectively denying access to justice and shielding systemic inequities behind procedural barriers. However, as our preceding analysis demonstrates, this Court's jurisprudence is sufficiently robust to prevent such an outcome. The flexible, context-specific approach to laches ensures that the historical realities and practical impediments faced by litigants are duly accounted for. Consequently, any attempt to invoke delay as a procedural shield to insulate historical injustices from judicial scrutiny would likely fail.

51. When this Court is confronted with claims that are inextricably linked to notions of historical wrong or systemic injustice, the judicial scales must largely tilt in favour of granting access to the court. The ultimate adjudication on the merits may or may not find the substantive law to be in favour of a petitioner. However, the very act of allowing these claims to be heard and deliberated upon is an essential aspect of constitutional recognition. It ensures that the procedural threshold of laches does not become an insurmountable wall.

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[6] *See* ¶ 12.12 & 12.13, ***Vidya Devi v. State of Himachal Pradesh & Ors.,*** (2020) 2 SCC 569

[7] See ¶ 18, Sukh Dutt Ratra & Anr v. State of Himachal Pradesh & Ors, (2022) 7 SCC 508 & ¶ 51, Urban Improvement Trust v. Vidhya Devi & Ors, 2024 SCC OnLine SC 3725.

52. Such ideals of constitutionalism are further enabled by Article 32, which imposes a duty and a privilege on this Court to enforce fundamental rights enshrined in the Constitution. At this juncture, it is apposite to refer to the following observation made by this Court in ***Daryao & Ors v. State of U.P. & Ors.***, reported in **1961 SCC OnLine SC 21**:

"8. There can be no doubt that the fundamental right guaranteed by Article 32(1) is a very important safeguard for the protection of the fundamental rights of the citizens, and as a result of the said guarantee this Court has been entrusted with the solemn task of upholding the fundamental rights of the citizens of this country. The fundamental rights are intended not only to protect individual's rights but they are based on high public policy. Liberty of the individual and the protection of his fundamental rights are the very essence of the democratic way of life adopted by the Constitution, and it is the privilege and the duty of this Court to uphold those rights. This Court would naturally refuse to circumscribe them or to curtail them except as provided by the Constitution itself. It is because of this aspect of the matter that in Romesh Thappar v. State of Madras in the very first year after the Constitution came into force, this Court rejected a preliminary objection raised against the competence of a petition filed under Article 32 on the ground that as a matter of orderly procedure the petitioner should first have resorted to the High Court under Article 226, and observed that "this Court is thus constituted the protector and guarantor of the fundamental rights, and it cannot, consistently with the responsibility so laid upon it, refuse to entertain applications seeking protection against infringements of such rights". [...]"

(Emphasis Supplied)

53. On similar lines, this Court in ***Prem Chand Garg & Anr v. The Excise Commissioner, U.P & Ors***, reported in **1962 SCC OnLine SC 37**, observed as follows:

"2. [...]The fundamental right to move this Court can, therefore, be appropriately described as the corner-stone of the democratic edifice raised by the Constitution. That is why it is natural that this Court should, in the words of Patanjali Sastri J., regard itself "as the protector and guarantor of fundamental rights," and should declare that "it cannot, consistently with the responsibility laid upon it, refuse to entertain applications seeking protection against infringements of such rights." In discharging the duties assigned to it, this Court has to play the role "of a sentinel on the qui vive" and it must always regard it as its solemn duty to protect the said fundamental rights' zealously and vigilantly. [...]"

(Emphasis Supplied)

54. The overarching discourse on the doctrine of delay and laches becomes crystal clear when situated within the broader context of this Court's constitutional duty and privilege under Article 32, as clearly enunciated in ***Daryao*** (*supra*) and ***Prem Chand*** (*supra*). This Court has consciously evolved the equitable doctrine of laches to ensure that it in no manner circumscribes or dilutes the solemn constitutional responsibility vested in it. A strict, mechanical application of delay would invariably lead to the dismissal of petitions at the very threshold, precluding any substantive adjudication of the fundamental rights claims advanced. Such an approach would be fundamentally antithetical to this Court's role as the protector and guarantor of fundamental rights and would effectively shrink the profound duty and privilege entrusted to this Court.

(c) Application to the facts of this matter

55. Adverting to the factual matrix of the present case, a *prima facie* assessment might suggest that the present writ petition is barred by the doctrine of laches. Undeniably, there has been an inordinate delay of nearly six decades, given that the impugned notification was issued in the year 1955 and the present petition was instituted only in the year 2014. Furthermore, adjudicating the claims raised herein would inevitably necessitate reopening historical legal settlements that have long attained finality. However, as delineated in the preceding analysis, the mere quantum of delay or the prospect of disruption cannot be

considered as sufficient reasons in themselves to bar a petition under Article 32. What is important is to gauge if the petitioner has a cogent explanation for the delay.

56. It stands to reason that an inordinate delay spanning six decades is rarely attributable to a solitary cause. The present factual matrix is no exception. To explain its prolonged absence from this Court, the petitioner has placed reliance on a confluence of mitigating circumstances.

57. One mitigating factor is the region's unique and tumultuous historical trajectory. In the decades immediately following Independence, the administrative and constitutional status of the area was in a state of continuous evolution. Originally administered as the Lushai Hills district within the State of Assam, the region was subsequently reorganised into the Union Territory of Mizoram under the North-Eastern Areas (Reorganisation) Act, 1971, before finally attaining full statehood in 1987. This period was simultaneously marked by significant political upheaval spanning nearly two decades in the form of an insurgency. Viewed cumulatively, these background conditions would have presented formidable practical hurdles. In such a climate of acute political unrest and chaos, claims for compensation and historical land rights are inevitably relegated to the periphery, making it exceptionally difficult for Mizo Chiefs to secure meaningful engagement with their grievances, especially within political circles.

58. Another mitigating circumstance is the Mizo Chiefs' continuous agitation of their claims before various forums. The material on record evidences a pursuit of their grievances, thereby dispelling the notion that the chiefs were indolent or slumbering over their rights. We are, however, mindful that the mere filing of successive representations to the authorities, particularly after previous representations have been rejected or a reasonable period has elapsed, does not furnish a valid explanation to surmount the bar of laches.[8]

59. In the present factual matrix, while it might be contended that the chiefs persisted with administrative representations for a prolonged duration, a crucial factor warrants specific attention. On multiple occasions, respondent no. 2 (the State of Mizoram) conducted itself in a manner that engendered a legitimate expectation amongst the chiefs that an amicable resolution was imminent, thereby obviating the immediate need for adversarial litigation. Evidence of such conduct is reflected in the official assurances tendered by the State before the Gauhati High Court, at a time when the chiefs were actively agitating for their rights. To substantiate, it would do well to look at the circumstances in which the writ appeals being pursued by the chiefs in the Gauhati High Court came to be disposed of:

a. In Writ Appeal No. 69 of 1998, the Counsel for the State of Mizoram submitted that the government is considering the claim for compensation and that a suitable order would be passed shortly, in consultation with the Union of India. In lieu of this statement, the counsel for the chiefs did not press the issue further. Consequently, the High Court disposed of the matter with the observation and direction that the government of Mizoram would consider the claim of the village chief, in consultation with the Union of India, expeditiously and preferably within three months. If the chiefs were not satisfied with the order, they were entitled to seek redressal of their grievances before an appropriate forum

b. Thereafter, in Writ Appeal No. 598 of 2005, once again, the Counsel for the State of Mizoram stated that the claim as espoused by the chiefs would be adjudicated afresh by

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[8] *See* ¶ 5-7, ***State of Orissa v. Pyarimohan Samantaray & Ors***, (1977) 3 SCC 396 & ¶ 6-10 & ***Karnataka Power Corpn. Ltd. v. K. Thangappan***, (2006) 4 SCC 322.

the State in accordance with law. Consequently, the High Court closed the writ appeal with the direction to the government of Mizoram to consider the claim of the chiefs afresh. In the event the chiefs felt aggrieved by the decision taken by the government of Mizoram, it was left open for them to pursue such remedy as may be available under law.

60. Further fortifying this expectation is the fact that the Chief Minister of Mizoram, on at least two distinct occasions, addressed formal communications to the Prime Minister of India, espousing the chiefs' claims for compensation. It is necessary to clarify that this Court does not construe such intergovernmental correspondence as constituting promissory estoppel against the State, being acutely aware that political communications often carry dimensions beyond the purview of judicial consideration. Nevertheless, these communications are pertinent to the extent that they signalled a sympathetic stance towards the chiefs' grievances. Such conduct could reasonably have led the chiefs to hope that a resolution was forthcoming, thereby dissuading them from initiating litigation.[9]

61. Weighing the totality of these circumstances, this Court is conscious of the fact that the delay herein is undeniably inordinate, and the explanation offered by the petitioner is, strictly speaking, not unequivocally convincing. Nevertheless, we are not inclined to dismiss this petition at the threshold solely on the ground of delay. It is evident from the record that the State of Mizoram (respondent no.2) has held out hope for an amicable settlement and never outrightly rejected the grievances of the chiefs. It is this unique combination, the continuous representations made by the chiefs coupled with the State's supportive stance, that understandably pushed the chiefs to seek an administrative resolution rather than immediately pursuing legal remedies. Equally significant is that, on two prior occasions when the chiefs approached the High Court, the matter was not adjudicated on the merits. Instead, owing to the ongoing dialogue between the parties, the High Court left the avenue open for the chiefs to pursue appropriate legal remedies in the future. To shut the doors on them at this third instance, without ever examining the substance of their claims, would be highly unjust.

(II) WHETHER ANY FUNDAMENTAL RIGHTS OF THE MIZO CHIEFS WERE VIOLATED?

62. It is well settled that, for relief to be granted in a writ petition under Article 32, a case must be made out establishing the existence of a fundamental right and its breach, actual or threatened.

63. Right to property was earlier enshrined in Articles 19(1)(f) and 31 of the Constitution. It may be noted that both these provisions were repealed by the Constitution (Forty-Fourth Amendment) Act, 1978. However, the 44th Amendment is prospective in its operation, and all laws passed and executive action taken prior to 20th June 1979 will continue to be judged by and be subject to the provisions of Part III, including Articles 19(1)(f) and 31.

64. Article 19(1)(f) guaranteed to the Indian citizens a right to acquire, hold, and dispose of property. Article 19(5), however, permitted the State to impose by law reasonable restrictions on this right in the interests of the general public or for the protection of the interests of any Scheduled Tribe. Article 31(1) laid down that no person could be deprived of his property without the authority of law. Article 31(2), on the other hand, underwent significant change and was the focal point of multiple constitutional amendments. Article 31(2) as it stood when it was originally enacted and Article 31(2) as it stood before its abrogation in 1978, are reproduced below:

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[9] See ¶ 21, ***P.C. Sethi v. Union of India,*** (1975) 4 SCC 67 & ¶ 16, ***Purshottam Lal v. Union of India,*** (1973) 1 SCC 651.

"Article 31(2) at the time of enactment of the Indian Constitution

No property, movable or immovable, including any interest in, or in any company owning, any commercial or industrial undertaking, shall be taken possession of or acquired for public purposes under any law authorising the taking of such possession or such acquisition, unless the law provides for compensation for the property taken possession of or acquired and either fixes the amount of the compensation, or specifies the principles on which, and the manner in which, the compensation is to be determined and given.

Article 31(2) as it stood before its abrogation in 1978

No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for acquisition or requisitioning of the property for an amount which may be fixed by such law or which may be determined in accordance with such principles and given in such manner as may be specified in such law, and no such law shall be called in question in any court on the ground that the amount so fixed or determined is not adequate or that the whole or any part of such amount is to be given otherwise than in cash."

65. In the present case, the central dispute concerns the alleged violation of the Mizo Chiefs' right to property, as guaranteed under Articles 19(1)(f) and 31 of the Constitution, respectively. The petitioner claims this right was breached either because the Mizo Chiefs were deprived of their lands without lawful authority, or because the compensation paid to them was wholly 'illusory'. Given that the impugned actions of the respondents occurred at a time when the right to property was a fundamental right under Part III, and considering that the Constitution (Forty-fourth Amendment) Act, 1978, operates only prospectively, the right to property was firmly in existence at the relevant time. Consequently, the existence of a fundamental right, as is required for invoking and claiming relief under Article 32, stands satisfied.

66. It is established that who bears the burden of proof in cases where fundamental rights violations are alleged depends on the fundamental right alleged to have been violated. The same burden of proof rule will not apply to all fundamental rights violation challenges.[10] However, in cases such as the present one, the initial burden is on the petitioner to satisfy the Court and make out a case for an invasion of their fundamental right(s).[11]

67. To discharge this initial burden and successfully establish a violation of their fundamental right to property, the petitioner must necessarily succeed on two distinct fronts. First and foremost, it must prove a clear title of the Mizo Chiefs over the subject lands, which, in the context of its sweeping claim, effectively encompasses the entire territorial expanse of the present-day State of Mizoram.[12] To establish such a title, the petitioner must conclusively demonstrate that, under the chieftainship system, as it operated during the British regime, the Mizo Chiefs held complete ownership of the land, rather than merely functioning as local administrative heads. Secondly, and only upon proving the ownership as aforesaid, the petitioner must satisfy the other parameters under Article 31. This includes, amongst other things, proving that the respondents deprived the chiefs of their property without lawful authority, or that the property was acquired without providing due compensation.

68. In an effort to discharge the burden of establishing title to the land, the petitioners have primarily relied on accounts and writings of scholars and officials of the British

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[10] *See* ¶ 15-29, ***Deena & Ors v. Union of India***, (1983) 4 SCC 645

[11] *See* ¶ 5, ***A. Hamsaveni & Ors v. State of Tamil Nadu & Anr***, (1994) 6 SCC 51.

[12] *See* ¶ 4, ***Bokaro and Ramgur Ltd. v. State of Bihar,*** 1962 SCC OnLine SC 379.

government. Upon a meticulous perusal of the said material, it is, at the very outset, highly ambiguous whether these texts unequivocally recognise the Mizo Chiefs as the absolute owners of the land. Furthermore, even assuming that such an interpretation could be culled from these writings, the petitioners have advanced no compelling justification as to why such writings and accounts should be elevated to the status of conclusive evidentiary proof. It is legally untenable for this Court to rest a decision of such magnitude on the fragile foundation of such flimsy submissions and woefully inadequate proof.

69. The material adduced by the respondent, at least on a *prima facie* examination, indicates that during the British administration of the Lushai Hills district, the title over the land never vested in the Chiefs. Furthermore, the record before us is bereft of any comprehensive compilation or analysis of the boundary papers issued to the Chiefs, nor is it established that these documents were uniform in their conferment of rights and duties. However, an examination of the boundary paper available on record entirely belies the petitioner's claim, as nothing therein even remotely suggests the conferment or recognition of absolute ownership of land. Consequently, we are constrained to hold that the petitioners have woefully failed to discharge their burden of proving title over the subject lands.

70. We are cognisant that, unlike in modern times, establishing land title from the pre-independence era, especially within a traditional chieftainship system, rarely involves a neat or conclusive paper trail. However, given the sheer magnitude of the petitioner's claims, it is only reasonable to expect a much deeper historical investigation on its part. To substantiate such an extravagant demand, the petitioner ought to have relied on alternative sources of evidence, such as government documents, official notifications, and administrative orders, to build a coherent understanding of their alleged title. Both sides have failed to present a continuous, documented chain of events that would clearly map out the status of the land at different periods.

71. Furthermore, the constitutional jurisprudence governing the right to property, particularly under the erstwhile Article 31, is deeply intricate and has been the subject of extensive judicial exposition. Consequently, apart from establishing ownership, there are other aspects to the right to property that the petitioner had to prove thoroughly. For instance, while the petitioner baldly asserts that the statutory compensation disbursed to the Mizo Chiefs was 'illusory', they have entirely failed to traverse the plethora of legal precedents rendered by this Court that delineate the parameters for determining when compensation becomes legally illusory. Moreover, the pleadings are silent on how this specific claim interacts with the broader constitutional framework of property rights under Part III, or on how it reconciles with other legislation in force in the then State of Assam. In essence, the petitioner has approached a profoundly complex legal issue in a simplistic and superficial manner.

72. The petitioner has further advanced a plea of discrimination, contending that the Mizo Chiefs stood on an equal historical footing with the rulers of the erstwhile Princely States. They argue that the State's failure to grant them comparable compensation or privy purses is manifestly arbitrary and violative of their fundamental rights. However, this assertion, much like its above claims, is entirely devoid of any legal basis and thereby merits outright rejection. The privy purses and other privileges granted to the erstwhile rulers of the Princely States were the direct outcome of specific, pre-constitutional political and contractual arrangements negotiated between those rulers and the Government. Consequently, it would be legally flawed to equate and elevate these entitlements to the status of a right, which all erstwhile rulers were constitutionally bestowed upon. Such

political arrangements cannot be claimed as a matter of a legally enforceable right, much less a fundamental right.

73. The petitioner has also contended that the State of Assam (the parent State in 1954) lacked legislative jurisdiction to enact the Act, 1954. However, as the petitioner has not discharged its burden of establishing any violation of the fundamental rights of the chiefs, we do not deem it necessary to address the vires of the Act, 1954 or the legality of the impugned notification in this present writ petition.

74. Therefore, having considered the matter from all vantage points, the inescapable conclusion is that the petitioner has not been able to establish any violation of the fundamental rights of the Mizo Chiefs in the present matter. Consequently, the petitioner is not entitled to any of the reliefs sought herein.

75. For all the foregoing reasons, this writ petition is accordingly dismissed.

76. Pending applications, if any, shall also stand dismissed.