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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgment reserved on: 13.08.2026***
***Judgment pronounced on: 21.08.2026***
***Judgment uploaded on: 21.08.2026***

\# **CNR No. DLHC010117312024**

\+ W.P.(C) 3534/2024
KHAN MARKET WELFARE ASSOCIATION (REGD.) .....Petitioner

Through: Mr. Kirti Uppal, Sr. Adv. along with Ms. Shaini Bhardwaj, Mr. Avichal Mishra, Advs.

versus

UOI & ORS. .....Respondents

Through: Mr. Raghvendra Upadhyay, PC for R-3.
Mr Amit Dhankhar SPC along with Mr. Prem Singh, Adv.
Mr. YoginderHandoo ASC along with Mr. Raghav Alok ASC, Mr. Ashwin Kataria, Ms. Khushboo Mittal, Mr. Garvit Solanki, Mr. Gaurav Vishwakarma, Mr. Aditya Aggarwal, Advs.

**CORAM:**
**HON'BLE MR. JUSTICE ANIL KSHETARPAL**
**HON'BLE MS. JUSTICE SHAIL JAIN**

**J U D G M E N T**

**ANIL KSHETARPAL, J.:**

1. The present Writ Petition under Article 226 of the Constitution of India has been preferred by the Petitioner, an association of property owners, entrepreneurs and residents in commercial and

mixed-use areas falling within the jurisdiction of Respondent No.3/New Delhi Municipal Council (hereinafter referred to as 'NDMC'). The principal grievance of the Petitioner is with regard to the manner in which rateable values are determined and property tax is assessed by the NDMC. The Petitioner alleges that different methods are being adopted for similarly situated properties, resulting in wide disparities in rateable values and consequent property tax liability. The Petitioner seeks, *inter alia*, a direction to the NDMC to formulate and implement a uniform method for determination of rateable value, constitution of an expert committee to inquire into alleged irregularities, and directions for strict compliance with Sections 63, 65, 70, 71, 72 and 73 of the NDMC Act.

2. The grievance of the Petitioner essentially arises from the post-2019 position concerning assessment of property tax in the NDMC area. The Petitioner contends that although the Dual Method introduced through the 2009 Bye-laws was declared *ultra vires* by the Supreme Court, NDMC continues to apply, in different forms, the principles underlying the Unit Area Method (UAM), actual rent, comparable rent and historical rateable values. According to the Petitioner, such differential treatment has resulted in similarly situated properties being subjected to substantially different rateable values and has vested excessive and unguided discretion in the assessing authorities.

3. NDMC disputes the allegations of arbitrariness, discrimination and misuse of power. It contends that the rateable value is determined in accordance with Section 63(1) of the NDMC Act and the law laid down by this Court and the Supreme Court. NDMC further explains

that the factors relevant for determination of rateable value necessarily differ depending upon whether a property is let out, self-occupied or subject to rent, which cannot be treated as a reliable indicator on account of extraneous circumstances. It is its case that what may appear to be different "methods" are, in substance, means of applying the statutory test of the annual rent at which a property might reasonably be expected to let.

## FACTUAL MATRIX:

4. The facts, insofar as relevant for adjudication of the present controversy, may briefly be noticed.

5. In the year 2009, NDMC introduced Bye-laws (hereinafter referred to as '2009 Bye-laws') which incorporated what was described as a Dual Method of assessment and which included principles of the UAM. The validity of the said Bye-laws came to be considered in proceedings before this Court and thereafter the Supreme Court in ***New Delhi Municipal Council & Ors. v. Association of Concerned Citizens of New Delhi & Ors.***[1]. The Supreme Court declared the said Bye-laws *ultra vires* but, considering the peculiar situation arising from their operation for several years and the fact that approximately 95% of the assessees had accepted and paid tax under the said Bye-laws, issued directions in exercise of powers under Article 142 of the Constitution of India protecting such assessments from being reopened.

[1] (2019) 15 SCC 303

6. Following the aforesaid judgment, NDMC took a number of administrative steps concerning different categories of assessees. According to NDMC, persons who had challenged the Bye-laws and whose assessments were pending were dealt with under Section 63 of the NDMC Act. In respect of the large number of assessees who had accepted the 2009 Bye-laws and paid tax thereunder, the assessments were continued in terms of the directions of the Supreme Court. NDMC further states that, where a notice under Section 72 of the NDMC Act is issued thereafter, the rateable value is revised in accordance with Section 63.

7. The Petitioner, however, disputes the manner in which the aforesaid position has been implemented. Reliance is placed upon the assessment lists of areas such as Khan Market and Connaught Place to contend that properties which are substantially similar in size, location and character have been assigned substantially different rateable values. The Petitioner has referred, in particular, to assessment lists in which the rateable values of properties in Khan Market allegedly range from relatively nominal amounts to very substantial figures.

8. The Petitioner also relies upon the order dated 16.05.2024 passed in W.P.(C) 6815/2022 captioned ***Saroj Tandon v. New Delhi Municipal Council & Ors.***, wherein the Court had noticed the stand taken by NDMC regarding the manner in which assessments were being dealt with after the Supreme Court judgment. The order recorded, *inter alia*, that NDMC had continued the rateable values of certain assessees who had earlier been assessed under the 2009 Bye-laws until a notice under Section 72 of the NDMC Act was issued and

decided. The Court also observed that the variation in rateable values placed before it was, *prima facie*, inexplicable.

9. NDMC points out, however, that W.P.(C) 6815/2022 was subsequently dismissed by this Court on 06.02.2025. NDMC also relies upon an affidavit filed in those proceedings stating that no notice under Section 72 of the NDMC Act had been issued after 22.01.2019 proposing revision of rateable value on the basis of the UAM, while the assessments of those who had already accepted and paid tax under the 2009 Bye-laws were continued in accordance with the directions of the Supreme Court.

10. NDMC has further placed reliance upon its Council Resolution dated 22.12.2019 and the legal opinion obtained thereafter. It is stated that, until the statutory framework is amended, NDMC would determine rateable value on the basis of comparable rent in accordance with Section 63(1) of the NDMC Act and the principles laid down by the Supreme Court, including in ***Dewan Daulat Rai Kapoor v. New Delhi Municipal Committee***[2]. NDMC has also referred to the Jan Vishwas (Amendment of Provisions) Bill, 2025 (hereinafter referred to as 'Jan Vishwas Bill'), which, according to it, proposes amendments to the NDMC Act so as to provide for the UAM.

11. The Petitioner, in rejoinder, disputes the aforesaid explanation. It contends that the continued adoption of different assessment regimes amounts to an admission of the very arbitrariness complained of in the Writ Petition. It further submits that the 2019 Council

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[2] (1980) 1 SCC 685

Resolution itself contemplated determination of rateable value on the basis of comparable rent until amendment of the statutory framework and that the same cannot justify selective application of UAM principles. The Petitioner also contends that the Jan Vishwas Bill, being only a Bill, cannot cure the alleged illegality in the existing assessment regime.

**<u>CONTENTIONS OF THE PARTIES:</u>**

12. Heard learned Senior Counsel representing the Petitioner and learned Counsel representing the NDMC and have perused the pleadings and material placed on record.

13. Learned Senior Counsel for the Petitioner has made the following submissions:

i. Section 63(1) of the NDMC Act prescribes a single statutory basis for determination of rateable value and that NDMC cannot, by administrative practice, create different classes of properties and apply different yardsticks to them. The expression "reasonably expected to let" necessarily requires an objective and uniform methodology and cannot be left to the subjective assessment of individual officers.

ii. The continued use of the principles of UAM after the judgment of the Supreme Court is impermissible, particularly when the 2009 Bye-laws had been declared *ultra vires*. The protection granted by the Supreme Court under Article 142 of the Constitution of India was limited to assessees who had already paid tax under the 2009 Bye-laws and could not be treated as authorisation for continued application of the UAM to future assessments.

iii. Upon perusal of the assessment lists produced on record, there are glaring disparities between similarly situated properties. Such disparity demonstrates hostile discrimination and is violative of Article 14 of the Constitution of India.

iv. Reliance is placed upon ***Ramesh Chandra Sharma v. State of U.P.***[3] for the proposition that an administrative classification must not only bear a rational nexus with the object sought to be achieved but must also have statutory sanction. The NDMC Act does not authorise the creation of different classes of properties for purposes of applying different methodologies of rateable value.

14. It may also be noticed that, while addressing arguments, learned Senior Counsel representing the Petitioner did not press the challenge to the constitutional validity of the expression "at any time" occurring in Section 72 of the NDMC Act.

15. *Per contra*, learned Counsel representing the NDMC has made the following submissions:

i. Section 63(1) of the NDMC Act does not prescribe a mathematical formula for determination of rateable value. It prescribes a statutory standard, namely, the annual rent at which the property might reasonably be expected to let. Determination of such hypothetical rent necessarily depends upon the facts of

[3] MANU/SC/0144/2023

each property, including its use, location, nature of occupation, actual rent and whether the actual rent is affected by extraneous considerations.

ii. The expression “reasonable rent” cannot be converted into a single uniform figure or formula applicable to every property. The judgment of the Supreme Court in ***Dewan Daulat Rai*** *(supra)* recognises that what is reasonable is a question of fact and that actual rent ordinarily provides guidance unless it is affected by extraneous circumstances. Actual rent, comparable rent and hypothetical rent are not different statutory bases but evidentiary considerations relevant to the application of Section 63(1) of the NDMC Act.

iii. Section 73 of the NDMC Act expressly permits the Chairperson to adopt the rateable value contained in an earlier assessment list, with such alterations as may be considered necessary. Thus, continuation of an earlier rateable value cannot, merely on account of its age, be characterised as an independent or unauthorised method of assessment.

iv. As regards UAM, NDMC has not, after the judgment of the Supreme Court, issued fresh notices under Section 72 of the NDMC Act, proposing revision on the basis of UAM. The assessments which continue to reflect the position under the 2009 Bye-laws relate to the category of assessees protected by the directions issued by the Supreme Court under Article 142 of the Constitution of India. The continuation of such assessments cannot be equated with fresh or prospective adoption of the invalidated Bye-laws.

v. Reliance is placed upon the decision in ***V.P. Agrawal*** *(supra)* to submit that questions concerning delay in finalisation of assessment proceedings involve disputed questions of fact and are ordinarily required to be raised before the statutory appellate authorities. NDMC Act contains a complete machinery of assessment, objection and appeal. The Petitioner cannot invoke writ jurisdiction to secure a general reworking of the entire property tax regime.

vi. The challenge to the present reliefs substantially overlaps with the issues raised in ***Saroj Tandon*** *(supra)*. Although the Petitioner disputes such overlap, the earlier proceedings and the judgment of this Court therein cannot be ignored while considering the broad and systemic reliefs sought in the present petition.

16. No other submissions have been made by the learned Senior Counsel and learned Counsel representing the respective parties.

**ANALYSIS AND FINDING:**

17. Preliminarily, it may be noticed that the present Writ Petition is preceded by a series of proceedings instituted by shopkeepers/property owners of Khan Market, as well as by associations of property owners and concerned citizens, raising grievances substantially concerning the assessment of property tax by NDMC. The proceedings instituted by the Association of Concerned Citizens of New Delhi and others

ultimately culminated in the judgment of the Supreme Court in ***Association of Concerned Citizens of New Delhi*** *(supra)*. Thereafter, property owners, in their individual capacity, instituted W.P.(C.) Nos.6815/2022, 8101/2022 and 8306/2022, *inter alia*, challenging the validity of the proviso to Section 72 read with Section 72(1)(f) of the NDMC Act, which came to be dismissed by a Division Bench of this Court on 06.02.2025. A further batch of petitions, namely, W.P.(C.) Nos.5995/2025, 6428/2025, 6954/2025, 7674/2025, 7839/2025, 8218/2025, 13622/2025, 13654/2025, 13655/2025 and 16720/2025, raising overlapping grievances, was thereafter dismissed on 04.12.2025. The present Writ Petition thus represents a subsequent attempt to agitate, through an association, issues which have already been pursued before this Court by individual property owners in earlier proceedings.

18. The substantive reliefs sought by the Petitioner may first be noticed. The prayers in the Writ Petition read as under:

> ***"PRAYER***
>
> *In view of the aforesaid facts and circumstances it is most respectfully prayed that this Hon'ble Court may be pleased to:*
>
> *a) issue a writ of Mandamus or any other appropriate writ, order or direction thereby directing the Respondents that till such time as a Unit Area Method is implemented in the areas falling under jurisdiction of Respondent no. 3/NDMC, it formulates a uniform method for fixing of rateable values for the areas falling under its jurisdiction and implement the same fairly without any discretion or discrimination while calculating and imposing property tax on citizens;*
>
> *b) declare the words 'at any time' used in Section 72 of the NDMC Act, 1994 as ultra vires or exercise the doctrine of severability in as much as the term 'at any time' used in Section 72 arbitrary, discriminatory and against the principles of fair adjudication and further in contradiction to the principles of Limitation;*

*c) Constitute an expert committee with power to inquire into frauds/irregularities and discrepancies meted out by Respondent No.3/NDMC & its officials in fixing of arbitrary and discriminatory rateable values of properties under its jurisdiction and further to invite and consider suggestions and inputs from various stakeholders thereby ensuring that no victimization or unfair practices are allowed to take place in the matter of assessing rateable values or levy of property tax henceforth;*

*d) direct the Respondents to ensure that sections 63, 65, 70, 71, 72 and 73 of the NDMC Act, 1994 are strictly followed by Respondent no. 3/NDMC;*

*e) Pass any other or further orders as this Hon'ble Court deems fit."*

19. Learned counsel representing the Petitioner, however, does not press prayer (b). The controversy, therefore, survives only in relation to prayers (a), (c) and (d).

20. At the outset, this Court finds it difficult to appreciate the maintainability of the aforesaid three prayers in the form in which they have been framed. The jurisdiction under Article 226 of the Constitution undoubtedly extends to issuance of a writ of *mandamus* against a statutory or public authority. However, the existence of a public authority, by itself, does not furnish a ground for issuance of *mandamus*. A *mandamus* is issued to enforce a legal right in the Petitioner corresponding to a legal or public duty cast upon the authority against whom the writ is sought. The remedy is thus directed towards requiring an authority to perform a duty which the law requires it to perform. It does not ordinarily empower the Court to assume the statutory or administrative function of the authority itself.

21. The nature of the jurisdiction is well settled. *Mandamus* is essentially a command requiring a public authority to act according to law or to refrain from acting contrary to law. Where an authority is

vested with a statutory discretion, the Court may, in an appropriate case, require the authority to exercise that discretion in accordance with law, but cannot itself exercise that discretion or direct that the discretion be exercised in a particular manner. The proper direction, where warranted, is ordinarily to require the competent authority to consider and decide the matter in accordance with the governing statute and the circumstances of the case. This principle finds expression, *inter alia*, in ***Union of India v. S.B. Vohra***[4]; ***Govind Sugar Mills Ltd. v. Hind Mazdoor Sabha***[5]; and ***State of Mysore v. K.N. Chandrasekhara and Others***[6].

22. The distinction assumes significance in the present case. Prayer (a) does not merely seek enforcement of an identified statutory duty which the Respondents have failed to discharge. It seeks a direction that, until a UAM is implemented, the Respondents should formulate a uniform method for fixing rateable values and implement such method in a particular manner. In substance, therefore, what is sought is a direction from this Court as to the manner in which the statutory authority should formulate and administer the methodology for determination of rateable values.

23. Such a direction cannot ordinarily be issued in exercise of the writ jurisdiction. The determination of the methodology to be adopted for assessment of rateable values, so long as the authority acts within the statutory framework, involves the exercise of statutory and administrative functions entrusted to the authority by the legislature.

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[4] (2004) 2 SCC 150
[5] AIR 1975 SC 1735
[6] AIR 1965 SC 532

The Court cannot, under the guise of issuing a *mandamus*, substitute its own formulation for that of the competent statutory authority. The principle is not that the exercise of statutory power is immune from judicial review, rather, it is that judicial review is directed towards the legality of the exercise of power and not towards the Court itself undertaking the function entrusted to the statutory authority.

24. The position is no different merely because the Petitioner alleges that the existing methodology results in arbitrariness, discrimination or hardship. It is well settled that a writ of *mandamus* will not issue to interfere with an administrative policy merely because the Court may perceive a different or more desirable manner of dealing with the matter, or because the existing arrangement causes hardship. Interference may, of course, be warranted where the exercise of power is shown to be *mala fide*, irrational, based on extraneous considerations, or otherwise contrary to law. Refernce in this regard can be made to the decision rendered by the Supreme Court in ***Tamil Nadu Education Department Ministerial on General Subordinate Services Association v State of Tamil Nadu***[7].

25. The relevant inquiry, therefore, is whether the Respondents have acted contrary to a specific statutory obligation or have exercised their power in a manner prohibited by law. It is not whether this Court considers another methodology to be preferable.

26. Prayer (c) stands on an even different footing. The Petitioner seeks constitution of an expert committee, armed with powers to inquire into alleged frauds, irregularities and discrepancies in the

[7] (1980) 3 SCC 97

fixation of rateable values throughout the jurisdiction of the Respondent-Authority, apart from inviting and considering suggestions from stakeholders and devising safeguards against alleged victimisation or unfair practices in future. The prayer does not identify any specific statutory duty requiring the constitution of such a committee, nor does it identify any particular statutory power which the Respondents have failed to exercise.

27. A direction of this nature would require the Court to create an administrative mechanism, prescribe its composition and remit, and entrust it with functions which have not been shown to have been statutorily vested in such a body. The jurisdiction under Article 226 cannot ordinarily be invoked for creation of such an institutional mechanism merely because the Petitioner alleges irregularities in the functioning of a statutory authority. In the absence of a demonstrated legal right in the Petitioner and a corresponding legal duty in the Respondents, prayer (c) therefore cannot be sustained as a prayer for mandamus.

28. Prayer (d), though differently worded, also does not furnish a basis for issuance of *mandamus* in the manner sought. The prayer seeks a general direction requiring the Respondents to ensure strict compliance with Sections 63, 65, 70, 71, 72 and 73 of the NDMC Act. A statutory authority is, in any event, bound by the statute governing its functioning. A general direction to comply with statutory provisions, without identifying a particular statutory duty which has been refused or neglected, would not amount to enforcement of a specific legal right through *mandamus*. If, in a particular case, the Respondents act contrary to any of the aforesaid provisions, such

action would be amenable to challenge in appropriate proceedings. But a general supervisory direction to ensure compliance with the statute cannot, by itself, be converted into a writ of *mandamus*.

29. The above conclusion, however, must be understood in the context of the nature of the present challenge. It is not the law that *mandamus* is unavailable in matters concerning levy or collection of tax or property tax. The jurisdiction under Article 226 can certainly be invoked where a taxing or revenue authority seeks to levy or collect a tax which is unconstitutional, *ultra vires* the statute, or which the authority has no jurisdiction to levy. The Court may, in an appropriate case, issue a *mandamus* restraining such unlawful levy or direct consequential relief where the law so warrants.

30. Thus, the availability of *mandamus* in a taxation matter depends upon the nature of the illegality complained of and the relief sought. Where the complaint is that the taxing authority has acted without jurisdiction, contrary to the charging provision, in excess of the statutory power, or in violation of a constitutional limitation, the Court may exercise its writ jurisdiction notwithstanding the fact that the dispute concerns assessment or levy of tax. Conversely, where the complaint is essentially that the statutory authority has adopted a particular methodology for assessment, and the relief sought is a direction to substitute or formulate another methodology, the Court would not ordinarily issue a *mandamus* merely because another method may appear fairer or more appropriate.

31. The distinction is particularly material here. The Petitioner has not pressed the challenge to the expression *"at any time"* occurring in

Section 72 of the NDMC Act. Consequently, the Court is not called upon to examine the constitutional validity of that provision or the validity of any particular assessment on the ground that it is beyond the statutory authority conferred by the Act. What remains is, in substance, a request that this Court direct the Respondents to adopt a particular system of assessment, constitute an expert committee to examine the functioning of the assessment mechanism, and issue a general direction for compliance with various statutory provisions.

32. Such reliefs travel beyond the permissible scope of a *mandamus*. The Court does not, in exercise of judicial review, ordinarily take over the functions of a statutory authority or prescribe the manner in which a statutory discretion is to be exercised. As observed in ***S.B. Vohra*** *(supra)*, the Court would ordinarily permit the statutory authority to perform the functions entrusted to it by law rather than itself entering that field. The power under Article 226 is a power of judicial review and not a power to administer the statute.

33. This does not mean that the Respondents are free to act arbitrarily. The statutory discretion vested in them remains subject to the requirements of the NDMC Act and to the constitutional limitations governing State action. An assessment or levy which is shown, in an appropriate proceeding, to be contrary to the statute, without jurisdiction, discriminatory in a legally cognisable sense, or otherwise vitiated by an impermissible exercise of power, can certainly be subjected to judicial review. But that is materially different from asking the Court to prescribe a uniform assessment methodology for the Respondents or to establish an expert mechanism for overseeing their statutory functions.

34. The Petitioner must, therefore, demonstrate not merely an interest in proper assessment or in the performance of the statutory functions of the Respondents, but a legal and judicially enforceable right corresponding to a legal duty which the Respondents have failed to perform. The material placed before the Court does not disclose such a right in respect of the reliefs now pressed. The grievances articulated by the Petitioner may, at their highest, invite the statutory authority to examine whether its assessment practices conform to the governing provisions of the NDMC Act. They do not, in the form presented, warrant the issuance of a *mandamus* requiring this Court to formulate the methodology or constitute an administrative mechanism for that purpose.

35. There is also a distinct question as to the capacity in which the present Writ Petition has been instituted. The Petitioner is an association, whereas the alleged prejudice arising from the determination of rateable values and levy of property tax is, in substance, stated to be suffered by individual property owners and assessees. The present proceedings are not in the nature of a public interest litigation seeking enforcement of a public right or a right of persons unable to approach the Court themselves. In a petition seeking a *mandamus*, the Petitioner must ordinarily establish a legal and judicially enforceable right corresponding to a legal duty on the part of the Respondents. The Petitioner has not demonstrated any independent right of the association which has been infringed.

36. The distinction is material, since an association cannot, merely by aggregating the individual grievances of its members, seek a *mandamus* for enforcement of rights which are personal to such

members. As recognised in ***Indian Sugar Mills Association v. Secretary to Govt., Uttar Pradesh***[8], an association cannot complain where only the personal rights of its individual members are affected. In the present case, therefore, unless the Petitioner establishes that the rights of the association itself are affected, or that the petition falls within the permissible parameters of a representative or public interest action, it cannot maintain the present prayers merely on the basis of alleged individual grievances of its members.

## CONCLUSION:

37. In view of the conclusion reached hereinabove as to the maintainability of prayers (a), (c) and (d), it is not necessary for this Court to examine the various factual and legal submissions advanced by the Petitioner on the merits of the grievances underlying those prayers. The exercise of writ jurisdiction cannot be invoked for granting reliefs which, in the form in which they have been sought, are themselves not amenable to a writ of *mandamus*. Any examination of the merits, in such circumstances, would be academic and would serve no useful purpose.

38. It is, therefore, clarified that this Court has not examined or expressed any opinion on the merits of the allegations made by the Petitioner regarding the manner in which rateable values are assessed or property tax is levied by the Respondents. The dismissal of the present Writ Petition is confined to the reliefs sought in prayers (a), (c) and (d) and the conclusion that such reliefs, as presently framed,

[8] (1950) All LJ 767

cannot be granted in exercise of the jurisdiction under Article 226 of the Constitution.

39. It is also clarified that the dismissal of the present Writ Petition shall not preclude any individual assessee from availing of the remedies available under the NDMC Act against a particular assessment, including a challenge to the determination of rateable value, non-compliance with the statutory procedure or unreasonable delay in finalisation of proceedings, in accordance with law.

40. For the aforesaid reasons, prayers (a), (c) and (d), as presently framed, cannot be granted in exercise of the writ jurisdiction of this Court. Prayer (b) having not been pressed, no adjudication thereon is called for.

41. The present Writ Petition is, accordingly, dismissed.

**ANIL KSHETARPAL, J.**

**SHAIL JAIN, J.**

**AUGUST 21, 2026**
*sp/shah*