

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 14127 OF 2025

1. **PANDIT SHIVAJI KUMBHARKAR**
Aged 35 Years, Occ. Agriculturist
Residing at Post: Udachiwadi,
Taluka: Purandhar, District:Pune.
2. **VIKAS KALURAM KUMBHARKAR,**
Aged 35 Years, Occ. Agriculturist,
Residing at Post:Udachiwadi,
Taluka: Purandhar,District:Pune.
3. **CHANDRASHEKHAR DINKAR MEMANE,**
Aged 38 Years, Occ. Agriculturist,
Resident at Post:Pargaon Memane,
Taluka: Purandhar, District:Pune.

...PETITIONERS

~ versus ~

1. **THE STATE OF MAHARASHTRA,**
through Principal Secretary,
Revenue & Forest Department,
Having Office at Mantralaya,
Mumbai - 400 032.
2. **THE DIVISIONAL REVENUE**
Commissioner, Pune Division, Pune.
3. **THE COLLECTOR OF PUNE,**
Having Office at Pune.
4. **PUNE METROPOLITAN REGIONAL**
Development Authority
Survey No. 152-153,
Maharaja Sayaji, Gaikwad Udyog
Bhavan, Aundh, Pune 411067.

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5. **MAHARASHTRA AIRPORT DEVELOPMENT COMPANY LIMITED,**
8th Floor, World Trade Centre,
Cuffe Parade, Mumbai - 400 005.
6. **SECRETARY MINISTRY OF DEFENCE,**
Ministry of Defence of India,
address at: Room No. 101-A,
South Block, New Delhi.
7. **SECRETARY, MINISTRY OF CIVIL AVIATION,**
Rajiv Gandhi Bhawan, Block B,
Safdarjung Airport Area,
Vasant Vihar, New Delhi 110003.
8. **AIRPORTS AUTHORITY OF INDIA,**
C-Block, Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi - 110003, India.
9. **CHIEF EXECUTIVE OFFICER,**
Maharashtra Industrial Development
Corporation Mumbai.

...RESPONDENTS

APPEARANCES

For the Petitioners	Mr Sunip Kumar Sen, Senior Advocate, with Akshay Kolse Patil, Ms. Tanaya Patankar and Mr. Prabhakar M. Jadhav.
For the Respondent-UoI	Mr Anil Singh, ASG, with Mr. Aditya Thalekar, Ms. Naveena Kumari and Ms. Aparnaa R.S
For the Respondent-State	Smt Neha S. Bhide, GP, with Mr. P.P. Kakade, Addl. GP, Smt. R.M. Shinde, AGP
For Respondent No. 5-MADC	Mr Shardul Singh, with Smeet Savla & Ninad Thikekar i/b. SHS Chambers.
For Respondent No. 8	Mr Darshil Shah, with Mr. Chetan Hadolikar, Ashish Kumar Singh & Ms. Palak Tyagi.

CORAM : SUMAN SHYAM &
ADVAIT M. SETHNA, JJ.

RESERVED ON : 1st SEPTEMBER 2026.

PRONOUNCED ON : 22nd SEPTEMBER 2026.

JUDGMENT (Per Suman Shyam, J):-

1. The three Petitioners in this Writ Petition are agriculturists owning agricultural land situated at Munjewadi, Ekatpur, Pargaon, Kumbharvalan, Vanpuri, Udachiwadi and Khanawadi villages of Takula Purandar in the District of Pune in Maharashtra. The Petitioners have approached this court by filing this Writ Petition *inter alia* challenging the decision of the authority to site/locate the new Greenfield Airport at “Site 1A”. They are also seeking to halt the process of land acquisition initiated for the purpose of construction of the proposed Greenfield Airport at Purandar, Pune.

The Writ Petition has been filed with the following prayers:-

“a. That this Hon'ble court be pleased to issue a writ of certiorari or any other writ, order or direction calling for this papers and proceedings including reports, presentation, records of any third party submitted or presented to the Respondents or any of them relating to this decision to site an Airport of Purandar known as Site 1A and having examined the legality and validity and propriety of the same be pleased to quash and set aside the same;

b. That this Hon'ble court be pleased to issue a writ of certiorari or any other writ, order or direction of relating to

acquisition of lands at villeges Munjewadi Ekatpur, Pargaon, Kumbahrwalan, Vanpuri, Udachiwadi and Khanawadi at Purandar taluka, District: Pune and stay any acquisition of land;

c. That this Hon'ble court be pleased to issue a writ of certiorari or any other writ, order or direction of relating to acquisition of lands at villeges Munjewadi Ekatpur, Pargaon, Kumbahrwalan, Vanpuri, Udachiwadi and Khanawadi at Purandar taluka, District: Pune and stay all acquisition in furtherance of setting up an Airport at location known as site 1A, Purandar, District Pune;

d. This Hon'ble court be pleased to issue a writ of mandamus and/or a writ direction or order in the nature of mandamus restraining the respondents from, in any manner, trying to acquire the land of the Petitioners villages for the purposes of construction of the said international airport.

e. This Hon'ble court be pleased to issue a writ of mandamus and/or a writ direction or order in the nature of mandamus directing the respondents to consider all other viable options for construction of the proposed airport”

2. The facts and circumstances of the case, giving rise to the filing of the present Writ Petition, shorn of unnecessary details, are as hereinafter: -

- i. A proposal for establishment of a Greenfield International Airport at Pune has been under consideration by the Government of Maharashtra since the year 2005. In September 2016, a pre-feasibility examination was undertaken by the technical team of the Airports Authority of India (hereinafter referred to as “AAI”) in respect of six sites identified by the Maharashtra Airport Development

Company Limited (hereinafter referred to as “MADC”) in the Saswad-Jejuri area. After examination of the different sites, the site labeled as “Site 1A” at Munjewadi, Pargaon Memane, was recommended, subject to the clearance by the Ministry of Defence. On 20th September 2016, the AAI communicated its approval for “Site 1A”, subject to removal of encumbrances and issuance of necessary clearances. On 23rd January 2018, the Ministry of Defence had granted NOC for “Site 1A”, subject to the conditions attached thereto.

- ii. The Steering Committee for Greenfield Airports had thereafter, forwarded Site Clearance for “Site 1A” on 23rd April 2018, and the Ministry of Civil Aviation granted Clearance for the said site on 8th May 2018, subject to the conditions stipulated by the Ministry of Defence, DGCA and AAI. Pursuant thereto, the Government of Maharashtra, on 9th May 2018, granted administrative and financial approval for acquisition of approximately 2,367 hectares of land for the proposed airport. The lands owned by the Writ Petitioners are also included in the above area of land.

- iii. During 2020-2021, an alternative location, being Site 5A, also came to be considered for setting up the Greenfield Airport. According to the Petitioners, “Site 1A” was not found to be technically feasible and/or suitable for setting up the Greenfield Airport. Therefore, an alternative site earmarked as “Site 5A” was explored for the purpose and eventually “Site 1A” was dropped in favour of “Site 5A”. It is the case of the Petitioners that “Site 5A” was not only technically superior as compared to “Site 1A” but also comprised of comparatively barren land.
- iv. On 9th February 2021, the MADC submitted an application for Aerodrome Approval in respect of “Site 5A”, setting out the technical advantages of the said site over “Site 1A” thus, seeking cancellation of the NOC and approval earlier granted for “Site 1A”. The Ministry of Defence (MoD) had also granted NOC for “Site 5A” on 12th August 2021, subject to certain conditions attached thereto. However, the NOC for “Site 5A” was subsequently cancelled.
- v. On 29th August 2022, a meeting held under the chairmanship of the Hon’ble Chief Minister, the MIDC was

directed to develop the Purandar Airport and appointed MIDC as the nodal agency for development of the Airport and for acquisition of land. Approval in respect of “Site 1A” was thereafter restored on 6th May 2024. The communication dated 6th May 2024 was, thereafter forwarded by the Ministry of Civil Aviation to MADC on 29th May 2024.

- vi. In the meantime, steps were undertaken for acquisition of the land for the construction of the Airport at “Site 1A”. By notification dated 10th March 2025 issued under Section 1(3) read with Section 2(g) of the Maharashtra Industrial Development Act, 1961 (hereinafter referred to as the “MID Act”), Chapter VI of the MID Act was applied to approximately 2,673.982 hectares of land situated in the aforementioned villages. On 17th March 2025, the Government of Maharashtra issued a Government Resolution No. IDC 2025/(C.R.88)/IND-14 paving the way for acquisition of land under the MID Act and for rehabilitation and resettlement of private landowners, in accordance with the Right to Fair Compensation and

Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the 'RFCTLARR Act') by recording that the land required for the proposed airport was to be acquired under the MID Act.

- vii. Public notices under Section 32(2) of the MID Act were, thereafter, issued inviting objections from the affected landowners. Individual notices were also issued and hearings were conducted in respect of the objections so received.
- viii. On 20th August 2025, a survey map was prepared by MADC demarcating the proposed airport area, comprising two 4-F runways.
- ix. On 22nd August 2025, the Collector, Pune, had passed an order in respect of acquisition. Between 25th August 2025 and 25th September 2025, consent letters were received in respect of approximately 1,150.18 hectares out of 1,216.75 hectares proposed for acquisition. After consideration of the objections and completion of the statutory process, a final notification under Section 32(1) of the MID Act came to be

issued on 9th February 2026 in respect of approximately 1,216.7522 hectares of land thus virtually completing the process of land acquisition.

3. By filing this Writ Petition, the Petitioners have basically questioned the decision of the authorities to revert to “Site 1A”. According to them, the proposed site suffers from technical as well as operational limitations, including those relating to height restrictions and flight operations. It is also the case of the Petitioners that the proposed airport at “Site 1A” would not be safe or viable and that other sites had been surveyed but viable alternatives were not properly considered. The Petitioners have also questioned the extent of land proposed to be acquired and contend that the lands sought to be acquired are primarily irrigated, multi-crop, agricultural lands on which the Petitioners and other affected farmers are dependent for their livelihood.

4. The Petitioners have also challenged the process of land acquisition, *inter alia* on the ground that there was no justification for selecting the lands in question when other viable alternatives were available. The Petitioners have contended that the Respondents could have acquired only the bare minimum land

required for the project and that the extent of land acquired/proposed to be acquired is disproportionate to the requirements of the proposed airport. The Petitioners have also raised a plea as regards to the overlapping catchment area of the proposed airport with the Navi Mumbai International Airport and have questioned the economic and operational viability of a large international airport at the proposed “Site 1A”.

5. Respondent No. 5–Maharashtra Airport Development Company Limited (“MADC”) has filed affidavit in reply. In its reply, the MADC has stated that the question of technical and/or operational viability of “Site 1A” would fall within the domain of the experts and the statutory authorities, including AAI, DGCA, the Ministry of Civil Aviation and the Ministry of Defence. According to the MADC, the challenge to the viability of “Site 1A” is substantially based on news reports, speculative apprehensions of future events which do not have any logical basis. The MADC has denied the assertion that “Site 1A” was unsuitable or that the NOC for “Site 5A” was cancelled arbitrarily.

6. Respondent No. 8–Airports Authority of India (“AAI”) has also filed affidavit in reply questioning the maintainability of the

Writ Petition by contending that the decision to acquire the lands is entirely that of the State Government of Maharashtra and MADC and that the AAI has had no role to play either in the acquisition of the land or in determination and disbursement of compensation. The Respondent No. 8 has further contended that its functions and responsibility under the Airports Authority of India Act, 1994 relate to the management, operation and development of Airports already in existence and it has no role in site selection, finalisation, land acquisition or development and construction of new Airports such as the proposed Airport at Purandar.

7. Respondent No. 9–Maharashtra Industrial Development Corporation (“MIDC”) has also opposed the Petition by questioning the maintainability of the same, *inter alia*, on the ground that the final notification under Section 32(1) of the Maharashtra Industrial Development Act, 1961 has been issued after compliance with Sections 32(2) and 32(3), and that the acquisition proceedings have made substantial progress. Therefore, there is no scope for the Court to interfere with the land acquisition proceedings at this point of time. The Respondent No. 9 has also taken the plea that the Petitioners have an alternate

statutory remedy under Section 33 of the MID Act in respect of determination and enhancement of compensation and other consequential reliefs and therefore, the Writ Petition is not maintainable due to availability of alternative remedy. As regards the choice of “Site 1A”, the MIDC has denied that the site is technically unviable or that its reversion from “Site 5A” was without any change in circumstances, and submits that the decision on siting of the airport was taken by the competent authorities after proper technical evaluation of the proposals. The MIDC has also denied the allegations regarding disproportionate acquisition of land, insider transactions and abuse of power and has submitted that the extent of land acquired was determined after technical examination and survey made by the concerned authorities.

8. The Petitioners had filed an Additional Affidavit in response to the objection raised as to their locus. In their Additional Affidavit, the Petitioners have stated that, being directly affected by the proposed acquisition, they are entitled to raise issues concerning the competence, location, technical feasibility and safety of the proposed Airport, including all issues of compliance

as laid down by the International Civil Aviation Organization. They have contended that the issues raised by the Petitioners have not been answered by the concerned authorities, particularly the Ministry of Civil Aviation and Ministry of Defence, which have not filed affidavits. The Petitioners have further contended that the Gram Panchayats were bypassed in the planning process and that the villagers were entitled to raise all issues concerning the location, technical feasibility and safety of the proposed Airport which opportunity was denied to them. The Petitioners have reiterated their earlier stand that the Airport was shifted from “Site 1A” to “Site 5A” on the ground of want of technical feasibility but was later on brought back to “Site 1A”, without any change in the circumstances. Therefore, the said decision was wholly arbitrary.

9. Mr. Sunip Sen, the learned Senior Counsel appearing for the Petitioners has submitted that the Petitioners, being the villagers and owners of land have the *locus standi* to maintain the present Writ Petition since they would be directly affected by the proposed acquisition. It is also submitted that the challenge is not only to the technical feasibility of the proposed Airport but also to the

legality and rationality of the decision to locate the Airport at “Site 1A” and the consequent acquisition of the Petitioners’ lands.

10. Referring to the proposal dated 9th February 2021, the learned Senior Counsel for the Petitioners has argued that “Site 5A” was found advantageous, *inter alia*, on account of lesser acquisition and development costs, absence of conflict with IAF/NDA flying operations, scope for expansion and lesser requirement of resettlement. Therefore, unless a cogent reason is furnished by the Respondents to revert to “Site 1A”, the decision of reversion must be held to be totally arbitrary, whimsical and hence, liable to be interfered with by this Court.

11. The learned Senior Counsel for the Petitioners has also submitted that the extent of land proposed to be acquired must have a rational nexus with the requirements of the project. Availability of alternative sites, the nature of the lands proposed to be acquired, the comparative economic and operational advantages of “Site 5A” are some of the relevant considerations which could not have been ignored by the authorities while choosing “Site 1A”.

12. The learned Senior Counsel has further submitted that despite the order dated 23rd April 2026 passed by this Court directing the Ministry of Civil Aviation and the Ministry of Defence (MoD) to address the issues concerning the proposed Airport, no substantive response has been placed on record before the Court by the said authorities. Therefore, the siting of the Airport at “Site 1A” must be held to be arbitrary, irrational and capricious.

13. In support of the aforesaid submissions, reliance has been placed upon by Mr. Sen upon *K.T. Plantation Pvt. Ltd. & Anr. v. State of Karnataka*,¹ and *Kolkata Municipal Corporation & Anr. v. Bimal Kumar Shah & Ors.*², to submit that deprivation of property under Article 300A must be by authority of law and for a genuine public purpose and that the exercise of compulsory acquisition would always be subject to judicial review.

14. Mr. Anil Singh, the learned Additional Solicitor General of India, appearing for the Union of India, on the other hand, has submitted that the Petitioners, being the affected landowners, cannot substitute their own assessment for the technical and

1 (2011) 9 SCC 1

2 (2024) 10 SCC 533

administrative decision of the competent authorities regarding selection of the Airport site. It is also his submission that by filing this Writ Petition the Petitioners are seeking re-examination of the comparative suitability of “Site 1A” and “Site 5A” which, in essence, is an attempt to reopen the expert opinion on site-selection, with a view to obstruct the project. According to Mr. Singh, the validity of expert opinion, unless found to be arbitrary or actuated by malice, would ordinarily not lie in the realm of judicial review under Article 226. It has further been submitted that the challenge made in this Writ Petition is substantially based on extraneous and unauthenticated material and the Petitioners have failed to establish any valid ground warranting interference by this Court in the matter.

15. By referring to the notification issued on 7th March 2025 and published in the Maharashtra Government Gazette on 10th March 2025, which brought Chapter VI of the Maharashtra Industrial Development Act, 1961 into operation in respect of the lands situated in the seven villages, Ms. Neha. S. Bhide, the learned Government Pleader appearing for the State of Maharashtra argued that objections were invited and considered

in accordance with Section 32, culminating in the acquisition notification dated 9th February 2026 under Section 32(1) paving the way for acquiring 1,216.75 hectares of land for the proposed Airport. She therefore submits that, as per Section 32(4), upon issuance of such notification, the land would vest with the State Government, free from all encumbrances. The question of compensation would thereafter, be dealt with under the sub-sections of Section 33.

16. Ms. Bhide has further submitted that since the acquisition process has substantially progressed, reopening the process of acquisition, consent agreements and consequential rights would cause serious financial and administrative hurdles thus, adversely affecting public interest in general. It has, therefore, been submitted that there is no good ground for this Court to interfere with the site-selection decision or the process of acquisition of land at the instance of individual land owners, more so, when statutory remedies are available to them to agitate their grievances, if any, in the matter of the land acquisition proceedings.

17. Mr. Shardul Singh, the learned counsel appearing for Respondent No.5-MADC has submitted that the comparative

suitability of “Site 1A” and “Site 5A” is essentially a matter for the expert and administrative authorities to consider and this Court may not have the expertise to sit in appeal over such technical decisions. He has further submitted that “Site 5A” was merely explored as an alternative option but was not proceeded with any further after withdrawal of the clearance for that site by the Ministry of Defence. Mr. Singh has further submitted that the Ministry of Civil Aviation had subsequently reiterated and reaffirmed the site clearance for “Site 1A”. Therefore, the contention of the Petitioners that “Site 5A” had been finally selected before abandoning the same is wholly incorrect and contrary to the record. To sum up his arguments, Mr. Singh has contended that setting up of the Airport at Purandar was necessary in the larger public interest. Therefore, any interference by this court in the ongoing process would delay the implementation of the project thus adversely affecting the public interest involved in the matter.

18. In support of their aforementioned submissions, the learned counsel for the respondents have relied upon *Union of India v.*

Kushala Shetty & Ors.,³ *BALCO Employees' Union (Regd.) v. Union of India & Ors.*,⁴ and *Alok Kotahwala & Ors. v. Jaipur Metro Rail Corporation Ltd. & Ors.*,⁵ to submit that technical and policy decisions of the competent authorities ordinarily should not be the subject matter of judicial review and that, in the absence of *mala fides*, manifest arbitrariness or illegality, the Writ Court ought not to substitute its own assessment for that of the experts.

19. We have considered the submissions made by the learned counsel for the parties and have also gone through the material available on record.

20. The Petitioners are admittedly landowners whose interests are affected due to the process of land acquisition undertaken by the authorities for setting up the Greenfield Airport at Purandar. Although the Petitioners are seeking interdiction in the land acquisition process, yet, we do not find sufficient pleadings in the Writ Petition establishing any statutory violation in the land acquisition proceeding. Rather, it appears that the Petitioners are opposing the siting of the Greenfield Airport with a view to save

3 (2011) 12 SCC 69

4 (2002) 2 SCC 333

5 2026 SCC OnLine SC 1324

their agricultural lands from being acquired by the State. Mr. Sen, learned Senior Counsel for the Petitioners, has also submitted, in his usual fairness, that in the present Writ Petition, the basic challenge is to the siting of the airport and the land acquisition is being resisted by his clients on the ground that a better alternative site was available for construction of the proposed Airport.

21. It appears from the material on record that, alternative sites for setting up the proposed Airport have been considered at different stages by the authorities/agencies competent to take a decision in the matter. It is no doubt correct that initially, “Site 1A” had received the clearances. However, at a later stage, “Site 5A” was also explored. There is, however nothing on record to show that “Site 5A” was ever finalized. As a matter of fact, the NOC granted in respect of “Site 5A” was subsequently cancelled and “Site 1A” was thereafter restored/reinstated. All these exercises, apparently took place, at a stage when feasibility of different sites were still being explored by the authorities and before any of the sites were finalized.

22. The question as to which would be the best location to set up a public infrastructure such as a Greenfield Airport will depend

on several factors, the paramount consideration of which is the public interest in general. A decision of such a nature would depend on various considerations, the necessary input in respect whereof would be available with the State. The executive authorities are best equipped with the technical expertise to decide on the alignment, location, public safety and requirement of land for such a mega project. Therefore, the decision in such matters would essentially lie in the domain of policy decision of the State. Unless it is demonstrated, on the basis of cogent material placed on record, that the decision is in bad faith or in colorable exercise of executive power or that there is violation of mandatory statutory provisions or non-compliance of Environmental norms, the Writ Court would be loath to interfere in such matters. In policy matters of this nature, the State would be the best judge to take a decision and the Writ Court would not substitute its own judgment for that of the technical experts or Governmental Authorities on an issue such as “site selection” for setting up a public infrastructure, on the spacious plea of the individual land owners that a better, less disruptive and alternative site was available for setting up the project. The Petitioners have failed to

demonstrate that the present case falls under any of the above-mentioned categories meriting interference by this Court.

23. The Supreme Court in *Alok Kotahwala and Ors. v. Jaipur Metro Rail Corporation Limited and Ors.*, (Supra) while considering a challenge based on availability of alternative parcels of land, has reiterated that such matters require judicial restraint and that determination of particular parcel of land required for a public project falls within the domain of expert planning authorities. In doing so, the Hon'ble Supreme Court had relied upon and reiterated the principles laid down in *State of Punjab v. Gurdial Singh*⁶ and *Sooraram Pratap Reddy v. Collector*⁷ The relevant observations of the Supreme Court in *Alok Kotahwala* (supra), in paragraphs 76 to 79 and paragraph 81, are as follows:

“76. Appellants have then urged that several alternative parcels of land, including lands belonging to RIICO, IOCL, JDA and other governmental agencies, were available and that the respondents ought to have utilised such lands instead of acquiring the appellants' property. We are apprehensive that such a contention traverses a domain where judicial restraint is particularly warranted. Judicial intervention in this regard essentially has to yield to a host of technical and operational considerations, subsuming alignment connectivity, maintenance logistics, future expansion, inter alia. This position was pithily encapsulated in *State of Punjab v. Gurdial Singh* as follows:

6 (1980) 2 SCC 471

7 (2008) 9 SCC 552

8. First, what are the facts? A grain market was the public purpose for which government wanted land to be acquired. Perfectly valid. Which land was to be taken? This power to select is left to the responsible discretion of government under the Act, subject to Articles 14, 19 and 31 (then). The court is handcuffed in this jurisdiction and cannot raise its hand against what it thinks is a foolish choice. Wisdom in administrative action is the property of the executive and judicial circumspection keeps the court lock-jawed save where power has been polluted by oblique ends or is otherwise void on well established grounds. The constitutional balance cannot be upset.

77. This position was reiterated in Sooraram Pratap Reddy v. Collector as follows:

119. In our judgment, in deciding whether acquisition is for "public purpose" or not, prima facie, the Government is the best judge. Normally, in such matters, a writ court will not interfere by substituting its judgment for the judgment of the Government.

78. Quite recently, a similar view was expressed by a co-ordinate Bench while dismissing a special leave petition vide order dated 8th June, 2022. It was held there that public interest being of paramount consideration, the National Highway Authority is the best judge to decide which land is to be acquired and which is not to be acquired for the purpose of construction of highways.

79. Thus, the determination of the particular parcel of land required for acquisition falls squarely within the domain of the expert planning authorities exercising powers of eminent domain.

80. ...

81. Although the respondents have justified why the suggested alternative lands were not suited nor available for the intended purpose, merely because another parcel of land may appear feasible to the landowner, the same cannot be pressed into service by the landowner, to persuade the Court to substitute its own opinion for that of the authorities entrusted with the planning and execution of the project."

24. The aforesaid principles, in our view, squarely apply to the facts of the present case as well. Whether “Site 1A” is more suitable than “Site 5A” is a matter for the competent authorities to determine based on a number of technical factors. In the absence of any established ground warranting judicial interference, we see no reason to undertake a comparative technical assessment between different sites in exercise of our Writ jurisdiction under Article 226 of the Constitution of India.

25. The Petitioners have raised some concern about the technical feasibility and safety features of the proposed Airport. However, in our view, these are matters which have been sufficiently examined by the statutory authorities and/or specialized agencies entrusted with such functions under the statute. Materials available on record are not sufficient to sustain a conclusion by this Court that the multiple agencies involved in the process of setting up of an Airport including the MoD, have acted in bad faith and ignored the safety features of the project while selecting the project site. There is nothing to show that the decision to proceed with “Site 1A” suffers from any manifest arbitrariness, *mala fides*, or statutory violation or any

demonstrable illegalities so as to justify interference by this Court. The Petitioners' disagreement with the assessment of the competent authorities with regard to a particular site to setup the Airport cannot, by itself, furnish a justifiable ground for judicial interference, more so when multiple agencies functioning under the Government of India including the MoD has cleared the project.

26. It would also be apposite to refer to the decision of the Hon'ble Supreme Court in *BALCO Employees' Union (Regd.) v. Union of India & Ors.*, (Supra) wherein the Supreme Court has discussed the limited scope of judicial review in matters concerning policy decisions and public projects. Referring to its earlier decision in *Narmada Bachao Andolan v. Union of India*,⁸ the Supreme Court observed in paragraphs 45 and 46 as follows:

"45. In Narmada Bachao Andolan vs. Union of India and Ors., there was a challenge to the validity of the establishment of a large dam. It was held by the majority at page 762 as follows :-

"229. It is now well settled that the Courts, in the exercise of their jurisdiction, will not transgress into the field of policy decision. Whether to have an infrastructural project or not and what is the type of project to be undertaken and how it has to be executed, are part of policy-making process and the Courts are ill-equipped to adjudicate on a policy decision so

8 (2000) 10 SCC 664

undertaken. The Court, no doubt, has a duty to see that in the undertaking of a decision, no law is violated and people's fundamental rights are not transgressed upon except to the extent permissible under the Constitution."

46. It is evident from the above that it is neither within the domain of the Courts nor the scope of the judicial review to embark upon an enquiry as to whether a particular public policy is wise or whether better public policy can be evolved. Nor are our Courts inclined to strike down a policy at the behest of a petitioner merely because it has been urged that a different policy would have been fairer or wiser or more scientific or more logical."

27. Construction of a Civil Airport is a project which would undoubtedly subserve the larger public interest. As noted above, the choice of site, alignment, project feasibility etc., fall exclusively within the domain of the experts. The Writ Court in exercise of its jurisdiction under Article 226 of the Constitution, cannot sit in appeal over such decision of the experts to decide whether such administrative or technical decision regarding choice of site is correct or not.

28. Siting of the airport is purely a matter of policy decision. The State as the expropriating authority, is in the best position to decide the suitability of the land and the extent to which the same is required for the public project. The land owners cannot dictate to the State as to which location would be more suitable for the project merely because they are trying to protect their land.

Therefore, by applying the *ratio* laid down in ***Narmada Bachao Andolan*** (Supra) to the facts of this case, we are of the considered opinion that, this being a policy matter, there is no legally justifiable ground for this Court to interfere in this case.

29. As regards the validity of the acquisition proceedings is concerned, it appears from the material on record that the acquisition has proceeded under the Maharashtra Industrial Development Act, 1961. Statutory notifications have been issued, objections have been invited and considered and the notification under Section 32(1) has also been issued. From the projections made before this Court, it is apparent that the process of land acquisition in respect of “Site 1A” has, by now, either been completed or the same is at a very advanced stage. In these circumstances, we are of the opinion that, at this stage, there is no scope for this Court to interfere with the land acquisition proceeding on the grounds taken in this Writ Petition.

30. Having observed as above, we, however, make it clear that we have not expressed any opinion on the individual plea of the land owners, if any, on the issue(s) of statutory compliances in the land acquisition proceedings, particularly with regard to issues of

quantum of compensation and/or disbursement and leave the aggrieved parties (land owners) including the present Petitioners, at liberty, to seek appropriate statutory remedy in such matter(s), in accordance with law, if so advised.

31. For the aforesaid reasons, the Writ Petition is held to be devoid of any merit. The same is accordingly dismissed.

32. No order as to costs.

(ADVAIT M. SETHNA, J.)

(SUMAN SHYAM, J.)