HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 5846/2012

CNR: RJHC020332132012 | URN: CW / 9652U / 2012

M/s Ajit Service Station near Power House, Malviya Nagar, Jaipur through its partner Shri Naresh Kumar Arora son of Shri Bihari Lal, resident of C-242, Krishna Marg, Malviya Nagar, Jaipur

----Petitioner

Versus

1. State of Rajasthan through the Secretary, Urban & Housing Development Department, Jaipur
2. Jaipur Development Authority, through the Secretary, J.D.A. building , J.L.N. Marg, Jaipur
3. The Director (Finance) Jaipur Development Authority, J.D.A. building J.L.N. Marg, Jaipur

----Respondents

For Petitioner(s)	:	Mr. Gunjan Pathak, Advocate
For Respondent(s)	:	Mr. Amit Kuri, Standing Counsel for the Jaipur Development Authority with Mr. Dharma Ram, Advocate Mr. Ayush Sharma, Advocate

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HON'BLE MR. JUSTICE VINOD KUMAR BHARWANI

Order

Reserved on	**:::**	**31/08/2026**
Pronounced on	**:::**	**10/09/2026**

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Instant writ petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner-firm with the following prayer:-

> *"It is, therefore, respectfully prayed that the writ petition be allowed and the impugned decision of the respondent No.2 dt.30.09.2003 (Annexure-16), decision of the J.D.A. Appellate Tribunal dt.10.07.2009 (Annexure-27) and decision of the State Government dt. 06.02.2012 (Annexure-28) and the decision of the State Government dt.24.07.2015 (Annexure-31) and the order dt.07.08.2014 (Annexure-33) be quashed and set aside.*
>
> *By further writ, order or direction, the respondents may be directed to issue correct lease deed by incorporating the period of lease as 99-years.*
>
> *Any other appropriate writ, order or direction, which this Hon'ble Court deems just and proper in the facts and*

circumstances of this case, may kindly be passed in favour of the petitioner.

Cost of the litigation may also be awarded to the petitioner."

Facts of the present case, in brief, are that the petitioner is a partnership firm. The dispute pertains to land measuring 843.99 sq. metres situated at Malviya Nagar, Jaipur, which was intended for the construction of a petrol pump.

Earlier to the present auction, subject land was allotted to M/s. Guru Nanak Tubewell Pvt. Ltd. being the highest bidder @ Rs.2,705/- per sq. meter; however, its bid was not approved by the JDA. Thereafter, the JDA recommended allotment of the same petrol-pump site to one Shri Mohan Lal Sharma under the Government Policy dt.04.07.1989. Accordingly, an allotment letter was issued to him on 11.05.1994 at the market rate @ Rs.3,100/- per sq. meter for a lease period of 99 years.

M/s. Guru Nanak Tubewell Pvt. Ltd. challenged the allotment by filing S.B. Civil Writ Petition No.2726/1994. The petitioner-firm's application under Order 1 Rule 10 CPC for impleadment was rejected, and the writ petition was dismissed by ld. Single Judge on 28.10.1994. Thereafter, the petitioner & M/s. Guru Nanak Tubewell Pvt. Ltd. preferred Special Appeals, which were allowed by the Division Bench vide judgment dt.19.05.1995.

The Jaipur Development Authority issued an advertisement in the newspaper inviting bids for the auction of the said land stating that the terms & conditions of the auction would be disclosed at the time of the auction. On 21.07.1995, the petitioner, alongwith other interested persons was present & participated in the auction. At the outset, the petitioner & other participants raised an objection to Condition No.1 of the terms & conditions, under which the lease period was prescribed as 25 years.

Thereupon, the Officers of the JDA present at the site and the members of the auction committee held discussions with the higher Officials of the JDA. It was thereafter communicated to all the participants that the lease period would be considered for 99 years. Acting on the said representation and under the *bona-fide* belief that the lease period would be 99 years, the petitioner participated in the auction. The petitioner emerged as the highest bidder and was accordingly, declared the successful bidder.

Thereafter, the petitioner deposited the auction amount, lease money and other miscellaneous charges, total amounting to Rs. 27,37,295/-. Subsequently, in terms of Clause 4 of the terms & conditions of the auction, the petitioner-firm applied for issuance of the licence deed & deposited the requisite fees and stamp duty with the JDA. The JDA, accordingly, issued a licence-deed dt.23.08.1995 for a period of 99 years containing certain terms & conditions.

The petitioner-firm thereafter, requested the JDA to issue the lease-deed and also deposited the requisite stamp papers. However, despite the passage of considerable time, the lease-deed was not issued. The petitioner submitted several representations & reminders requesting the issuance of the lease-deed for a period of 99 years and also sought a one-time lease exemption certificate, as the petitioner had already deposited the one-time lease amount. After a long delay, lease-deed was issued on 16.08.2003 but the same was issued only for 25 years instead of 99 years. Against the aforesaid illegality, the petitioner-firm preferred a representation.

Initially, the J.D.A. rejected the petitioner's representation without assigning any reasons. Subsequently, the matter was considered by the Core Committee of the J.D.A. During the course of consideration, the Director (Finance) sought an explanation as to why the lease period for the petrol-pump land had been fixed for 25 years when commercial land was generally leased for a period of 99 years. Thereafter, considering the petitioner's contention, the J.D.A. referred the matter to the Urban Development & Housing Department (UDH) for an appropriate decision.

The petitioner also filed a complaint before the *Lokayukta* regarding the action of the J.D.A. In response thereof, the JDA informed the *Lokayukta* that the Commissioner had referred the matter to the State Government for a decision regarding correction of the lease period.

Thereafter, the petitioner filed a reference before the JDA Tribunal. In its reply, the JDA contended that all previous allotments/ sales had been made for a period of 25 years and, therefore, the auction in the petitioner's case had also been correctly conducted for a lease period of 25 years. The JDA Tribunal ultimately dismissed the reference preferred by the petitioner.

On the petitioner's representation, an opinion was also sought from the Law Department. The Officer of the Law Department opined in favour of the petitioner stating that the JDA had agreed to issue the lease-deed for a period of 99 years. However, by order dt.06.02.2012, the Law Minister rejected the said opinion and held that the lease-deed for a period of 25 years was correct.

Subsequently, by letter dt.07.08.2014, the UDH Department admitted that the lease period had wrongly been reduced from 99 years to 25 years without obtaining prior permission from the State Government. The UDH Department also directed the JDA not to commit such a mistake in future.

During the pendency of the present petition, the petitioner once again approached the State Government seeking correction of the lease period from 25 years to 99 years. However, the said request was rejected by the UDH Department vide letter dt.24.07.2015.

The contentions advanced by learned counsel appearing for the **petitioner-firm** are that earlier to the present dispute, the same land was allotted to Shri Mohan Lal Sharma on a 99-year-leasehold-basis. However, the said allotment was set aside by the Division Bench of this Court on the ground that the land can only be allotted by public auction. There was no decision to reduce the lease period; nevertheless, Condition No.1 of the terms & conditions prescribed a lease period contrary to law. When the bidders raised objections at the auction site, the Chief Revenue Officer (CRO), representing the JDA, clearly announced that the auction would be conducted for a lease period of 99 years. Accordingly, the licence-deed dt.23.08.1995 was issued by the CRO Cell for a period of 99 years. Therefore, mentioning the lease period as 25 years was arbitrary & illegal and ought to have been rectified.

It has further been contended that the JDA could not prescribe lease terms contrary to the Rajasthan Municipalities (Disposal of Urban Land) Rules, 1974 (herein-after referred as Rules,1974). The prior approval of the State Government was mandatory for fixing a lease period of less than 99 years, but no such approval was obtained. The JDA & the Rajasthan Housing Board had allotted petrol-pump sites on 99-year leasehold basis in accordance with the Rules. The JDA had neither followed the statutory Rules nor complied with the instructions issued by the State Government. The directions issued by the Division Bench had also not been followed in their true spirit. The JDA failed to decide the matter by passing a speaking & reasoned order. The JDA Appellate Tribunal also failed to consider the provisions of the Rules 1974 and the similar allotments made in favour of one Ashish Saraf.

In the present case, the petitioner had offered a bid substantially higher than the commercial reserve price, and the petitioner-firm had also deposited one-time lease amount for 99 years and the petitioner had offered a substantially higher amount in the open auction. In these circumstances, the lease period could not legally be restricted to 25 years. On the petitioner's representation, the matter was also examined by the Administrative Department & the Law Department of the State Government.

It has also been submitted that the petitioner-firm was not afforded an opportunity of hearing & the relevant material available on record was not duly considered while passing the impugned order. The impugned order was, therefore, contrary to the principles of natural justice and is liable to be quashed.

Further submission is that the auction had been conducted pursuant to the judgment of the Division Bench dt.09.05.1995 and the Government instructions dt.04.07.1989. Therefore, any condition inconsistent with the terms of the auction was illegal, void & contrary to law.

Lastly, it was contended that the land had been auctioned on a 99-year leasehold basis, with the bidding commencing @ Rs.2,730/- per square metre, being the commercial reserve price. Consequently, the lease period could not subsequently be reduced from 99 years to 25 years. The Officers of the Law Department had also opined that in the absence of prior permission from the State Government, the JDA had no authority to reduce the lease period from 99 years to 25 years.

In support of his contentions, learned counsel appearing for the petitioner-firm, has placed reliance upon the following judgments:- ***(i)*** *Jal Mahal Resorts (P) Ltd. Vs. K.P. Sharma, (2014) 8 SCC 804,* ***(ii)***

Y. Mahaboob Sheriff & Sons Vs. Mysore State Transport Authority, AIR 1960 SC 321, ***(iii)*** *State of Rajasthan Vs. Harishanker Rajendrapal, AIR 1966 SC 296,* ***(iv)*** *Harishanker Vs. State of Rajasthan, 1962 RLW 672 and* ***(v)*** *M/s. Kardhani Fuel Centre Vs. State of Rajasthan & Others, SB CWP No.15876/2015 decided on 18.01.2017* respectively.

Per-contra, learned counsel appearing for **respondent Nos.2 & 3,** has submitted that at the very out set the petitioner's claim deserves to be dismissed on the ground of delay & latches, the petitioner participated in the public auction in 1995, executed the registered lease-deed in 2003, submitted its first objection after an eight years silence and approached the J.D.A. Tribunal in Reference No.455/2008 only after an unexplained lapse of 13 years. The land in question was auctioned on 21.07.1995 subject to the terms & conditions contained in Annexure-10. The foremost condition, i.e., Condition No.1, provided for a lease period of 25 years. The petitioner willingly accepted the said condition by signing the terms & conditions of the auction, without raising any objection & with full knowledge of its implications. Accordingly, a lease-deed for a period of 25 years was executed & registered in favour of the petitioner on 16.08.2003. The petitioner voluntarily signed the said lease-deed without any objection and subsequently, deposited the lease amount for the entire lease period i.e. up to 25.07.2020.

Learned counsel for the JDA further submitted that merely mentioning a period of 99 years in the licence did not create any right in favour of the petitioner to seek execution of a lease deed for 99 years. The lease-deed was executed subsequently in strict accordance with the terms & conditions of the auction and, being the subsequent & operative document, superseded the licence.

It was further contended that the general provisions contained in Rule 4 of the Rules, 1974 stood superseded and excluded by the specific proviso to Rule 5, which mandated compliance with the policy directives issued by the State Government in respect of allotment of land for petrol pumps. According to the respondents, the said policy directives uniformly prescribed a lease tenure of 25 years.

Learned counsel also referred to the State Government's order dt.07.08.2014, whereby it was stated that the lease period of the plot had been fixed for 25 years in accordance with the conditions of the auction and that it was not possible to extend the same to 99 years. The said order further observed that reducing the lease-period from 99 years to 25 years without obtaining prior approval of the State Government was improper and directed that such a mistake should not be repeated in future.

It was, however, submitted that at the time when the plot was auctioned in 1995, Rule 4 of the Rules 1974 did not contain any requirement for obtaining prior approval of the State Government. The requirement of prior State Government sanction to deviate from the 99 years Rule was only inserted into Rule 4 via a gazetted notification on 15.01.2002 and cannot be applied retrospectively to invalided a public auction completed in 1995. Therefore, the petitioner cannot claim for the lease for the period of 99 years in respect of land in question and present writ petition be dismissed.

The registered lease-deed expired naturally by efflux of time on 20.08.2020, extinguishing all rights of the petitioner in the absence of any renewal covenant. Following the expiration, the petitioner’s status was reduced to a tenant at sufferance, and the Jaipur Development Authority resumed actual physical possession of the land on 21.08.2020 via a formal Possession Memo. In view of the unchallenged possession proceedings and the State Government's binding circular dt.14.08.2015 barring the extension of expired 25-year commercial leases, the writ petition has been rendered completely infructuous and is liable to be dismissed with costs.

In support of their submissions, learned counsel appearing for the respondent/JDA Nos.2 & 3, has placed reliance upon the following judgements:- ***(i)*** *Syndicate Bank Vs. R. Veeranna & Others, 2003 (2) SCC 15,* ***(ii)*** *Tamil Nadu Electricity Board & Another Vs. N. Raju Reddiar & Another, 1996 (4) SCC 551,* ***(iii)*** *State Bank of Travancore Vs. Kingston Computers India Private Limited, 2011 (11) SCC 524,* ***(iv)*** *UP Jal Nigam & another Vs. Jaswatn Singh & Another, 2006 (11) SCC 464,* ***(v)*** *State of Maharashtra Vs. Digambar, 1994 (4) SCC 683,* ***(vi)*** *Union of India & Others Vs. Har Dayal, 2010 (1) SCC 394,* ***(vii)*** *Sudha Parhar Vs. Jaipur Development Authority, SB CWP 5778/2006, decided on 20.11.2014 RHCB Jaipur,* ***(viii)*** *Jaipur Development Authority Vs. M/s. Boutique Hotels India Pvt. Ltd. & Others, SB CWP 2593/2009 decided on 13.04.2023 RHCB Jaipur,* ***(ix)*** *Krishan Pal Dheer Vs. State of Rajasthan & Others, SB CWP 4679/2017 decided on 31.08.2022 RHCB Jaipur and* ***(x)*** *Union of India & Another Vs. Kartick Chandra Mondal & Another, 2010 (2) SCC 422* respectively.

In the case of *U.P. Jal Nigam* ***(supra),*** the Hon'ble Apex Court, in Para 12 held as under:-

> *"The statement of law has also been summarized in Halsbury's Laws of England, Para 911, pg. 395 as follows :-*
>
> *"In determining whether there has been such delay as to amount to laches, the chief points to be considered are :*
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> *(i) acquiescence on the claimant's part; and*
>
> *(ii) any change of position that has occurred on the defendant's part.*
>
> *Acquiescence in this sense does not mean standing by while the violation of a right is in progress, but assent after the violation has been completed and the claimant has become aware of it. It is unjust to give the claimant a remedy where, by his conduct, he has done that which might fairly be regarded as*

> *equivalent to a waiver of it; or where by his conduct and neglect, though not waiving the remedy, he has put the other party in a position in which it would not be reasonable to place him if the remedy were afterwards to be asserted. In such cases lapse of time and delay are most material. Upon these considerations rests the doctrine of laches."*

In the case of State of Maharashtra ***(supra),*** the Hon'ble Apex Court, in Para 14 held as under:-

> *"How a person who alleges against the State of deprivation of his legal right, can get relief of compensation from the State by invoking writ jurisdiction of the High Court under Article 226 of the Constitution even though, he is guilty of laches or undue delay is difficult to comprehend, when it is well settled by decisions of this Court that no person, be he a citizen or otherwise, is entitled to obtain the equitable relief under Article 226 of the Constitution if his conduct is blame-worthy because of laches, undue delay, acquiescence, waiver and the like. Moreover, how a citizen claiming discretionary relief under Article 226 of the Constitution against a State, could be relieved of his obligation to establish his unblameworthy conduct for getting such relief, where the State against which relief is sought is a welfare State, is also difficult to comprehend. Where the relief sought under Article 226 of the Constitution by a person against the welfare State is founded on its alleged illegal or wrongful executive action, the need to explain laches or undue delay on his part to obtain such relief, should, if anything, be more stringent than in other cases, for the reason that the State due to laches or undue delay on the part of the person seeking relief, may not be able to show that the executive action complained of was legal or correct for want of records pertaining to the action or for the officers who were responsible for such action not being available later on. Further, where granting of relief is claimed against the State on alleged unwarranted executive action, is bound to result in loss to the public exchequer of the State or in damage to other public interest, the High Court before granting such relief is required to satisfy itself that the delay or laches on the part of a citizen or any other person in approaching for relief under Article 226 of the Constitution on the alleged violation of his legal right, was wholly justified in the facts and circumstances, instead of ignoring the same or leniently considering it. Thus, in our view, persons seeking relief against the State under Article 226 of the Constitution, be they citizens or otherwise, cannot get discretionary relief obtainable thereunder unless they fully satisfy the High Court that the facts and circumstances of the case clearly justified the laches or undue delay on their part in approaching the Court for grant of such discretionary relief. Therefore, where a High Court grants relief to a citizen or any other person under Article 226 of the Constitution against any person including the State without considering his blame-worthy conduct, such as laches or undue delay, acquiescence or waiver, the relief so granted becomes unsustainable even if the relief was granted in respect of alleged deprivation of his legal right by the State."*

In the case of Tamil Nadu Electricity Board ***(supra),*** the Hon'ble Apex Court, in Para 7 held as under:-

> *"At the outset it must be borne in mind that the agreement between the parties was a written agreement and therefore the parties are bound by the terms and conditions of the agreement. Once a contract is reduced to writing, by operation of Section 91 of the Evidence Act it is not open to any of the parties to seek to prove the terms of the contract with reference to some oral or*

other documentary evidence to find out the intention of the parties. Under Section 92 of the Evidence Act where the written instrument appears to contain the whole terms of the contract then parties to the contract are not entitled to lead any oral evidence to ascertain the terms of the contract. It is only when the written contract does not contain the whole of the agreement between the parties and there is any ambiguity then oral evidence is permissible to prose the other conditions which also must not be inconsistent with the written contract. The case in hand has to be adjudged bearing in mind the aforesaid principles and the plaintiffs being conscious of this position along with the tender appended a letter and in that letter inserted certain terms by writing in ink to establish the case that the acceptance of the plaintiffs' tender would tantamount to the acceptance to the terms contained in the letter in which there was insertion in writing to the effect that it was on multi slab basis. It is in this context the question whether such hand written portion was originally there or was subsequently inserted assumes great significance. We are unable to accept the stand taken by the learned counsel for the respondents that there was no such issue on this question inasmuch as this question was considered by the learned Trial Judge while discussing Issue No. 1 on the basis of evidence laid and the Trial Judge had given a finding in favour of the plaintiffs. The said finding, however, on the face of it appears to us to be wholly unsustainable. As has been stated earlier there was no signature either by the persons submitting the tender or by the persons receiving the same on the hand written portion of the letter. The learned Trial Judge had noticed that the certified copy which was issued by the Board on 11.7.1978 of the aforesaid letter clearly contains the hand written portion and therefore he came to the conclusion that the hand written portion was there at the time of submission of the tender. The tender itself was submitted on 12.7.1978 and we fail to understand how the Board could grant a certified copy of the letter on 11.7.1978 when the plaintiffs' case itself is that along with the tender he had appended the letter in question. On this ground alone it can be safely held that hand written portion in Exhibit P-1 was not there at the time of submission of the tender but was subsequently inserted obviously with the connivance of the officers of the Board. The Board in its rejoinder affidavit filed in this Court has stated that the attested copy was actually received on 28.12.1978, much later than the finalization of the tenders and agreement and in order to build up a case the aforesaid interpolation has been made. In the facts and circumstances of the present case the aforesaid stand of the Board appears to us to be wholly justified and at any rate we have no hesitation to come to the conclusion that the hand written portion in Exhibit P-1 was not there initially and has been inserted subsequently. The main basis of the plaintiffs' case on which a multi slab rate was claimed therefore fails. The written agreement between the parties nowhere indicates that the rate to be paid to the plaintiffs was on multi slab basis and the terms and conditions of the written contract is not susceptible of such a construction."

Heard learned counsel appearing for the parties. Perused the impugned orders/letter and the case-laws cited herein-above by both the parties as well as the material made available on record.

In the present case, in the year 1995, an advertisement was published in the newspaper with regard to the subject land, wherein the duration of the lease was not disclosed. Subsequently, at the time of bidding, the terms & conditions were disclosed, and under Condition No.1, the duration of the lease was initially fixed for 25 years. However, on objections being raised by the bidders, the respondent-JDA assured the bidders that the period of the lease-deed would be 99 years and, accordingly, they should participate in the bidding process. The petitioner-firm also participated in the auction and, being the highest bidder, was declared successful and the subject land was allotted to him. Pursuant to the auction conducted in year 1995, the respondent-JDA issued a demand-note to the petitioner requiring him to deposit the one-time lease payment for a period of 99 years. Upon deposit of the requisite payment, a licence-deed dt.23.08.1995 was issued by the respondent-JDA in favour of the petitioner-firm for a period of 99 years. However, the respondent-JDA contended that a licence is merely a revocable permission and does not create any estate or proprietary interest in favour of the licensee, and that the same stood entirely superseded by the formal registered lease-deed dt.16.08.2003. Since the JDA asserted that the lease-deed had rightly been executed for a period of 25 years, during the pendency of the present petition, this Court, *vide* its order dt.27.04.2017, required the respondent-JDA to inform the Court as to the additional amount, if any, that would be payable by the petitioner, if the lease were to be treated as being for a period of 99 years. In compliance with the order dt.27.04.2017, the respondent-JDA submitted an affidavit stating therein that the JDA was willing to refund the excess amount deposited by the petitioner-firm.

The formal lease-deed was only a document meant to officially record and confirm an agreement that had already been finalized between the parties. It could not unilaterally reduce, change, or weaken the 99-year tenure that had already been granted to the petitioner-firm under the 99-year licence-deed. Having put the petitioner in possession for 99 years through, a formal legal instrument, the JDA was *functus-officio* regarding the duration of the grant. It could not, seven years later in 2003, downgrade the estate into a 25 years tenure.

Significantly, in its affidavit filed in compliance with the order dt.27.04.2017, the JDA itself admitted that the petitioner had deposited the one-time lease premium for a period of 99 years. The fact that the minimum bid amount was to be determined with reference to a 99 years tenure lends further support to the petitioner’s contention that the economic and contractual basis of the transaction was the grant of a 99 years lease. If the bid had, in fact, been invited for a tenure of only 25 years, the financial consideration would necessarily have required determination with reference to that shorter tenure, subject of course to the applicable rules. The JDA's contention that it is willing to refund the excess money is legally impermissible. An authority cannot after the economic basis of a transaction decades after retaining the citizen's capital, refunding with nominal interest while stripping away 74 years of lease hold rights amount to expropriatory state action. A statutory authority cannot hold public money for years and offer an exit route that severely penalizes the citizen while rewarding its own administrative lapse.

Rules 4 & 31 of the Rajasthan Municipalities (Disposal of Urban Land) Rules, 1974 are relevant to quote here as under:-

> ***“4. Tenure of lease.-*** *<u>Sale of lease hold rights in land shall be for a period of 99 years.</u>*
>
> *Provided that the trust may with the previous sanction of the State Govt. grant lease for lessor period of such terms and conditions as may be determined by the State Govt.*
>
> ***31. Power to relax rules.-*** *In exceptional cases where the State Government is satisfied that operation of these rules causes hardship in any particular case or where the State Government is of the opinion that it is necessary or expedient in public interest to do so, may relax the provisions of these rules in respect of the price, [penalty, conditions imposed in relation to any allotment and] size of plot/strip of land to such*

extent and subject to such conditions as it may consider necessary for dealing with the case in a just and equitable manner."

In respect of the above Rules, the respondent/JDA contended that the proviso to Rule 4 came into force only in the year 2002 and, therefore, cannot be applied to the present case and prior approval of the State Government was not required. The said contention is not sustainable. As per Rule 4 of the Rules, 1974, a lease-deed can only be issued for 99 years and, for issuance of a lease-deed for a period of less than 99 years, prior approval of the State Government is mandatory under Rule 31 of Rules, 1974, whereas in the present case, no prior approval from the Government in accordance with Rules 4 & 31 of the Rules, 1974, has been taken. Neither in letter dt.04.07.1989 issued by the State Government nor in the order dt.19.05.1995 passed by the Division Bench of this Court contains any stipulation that the land was to be allotted for a period of less than 99 years, nor have any other documents in this regard been submitted, which can reflect that prior approval of the State Government was taken.

Even assuming that the proviso to Rule 4 introduced in 2002 was not applicable to the auction conducted in 1995, the substantive mandate contained in Rule 4, supports the conclusion that the disposal of urban land by local authorities on a leasehold basis was intended to be for a period of 99 years, unless a shorter tenure was specifically sanctioned by the competent authority under Rule 31. In this regard Rule 31 of the Rules, 1974 specifically states about the relaxation of rules by the State Government. The State and its instrumentalities were under an obligation to ensure that the documentation faithfully reflected the substantive rights created in favour of an allottee, who had duly discharged the entire financial obligation prescribed for a 99-year lease.

The substantive provision of Rule 4 expressly contemplates that the urban land disposed of by local authorities on a leasehold basis shall be granted for a period of 99 years. A subordinate local authority cannot, in the absence of any specific statutory or administrative authorization, prescribe an arbitrary shorter tenure so as to defeat the uniform 99-year leasehold framework contemplated under the Rajasthan Urban Land Policy. The Rules did not confer upon the respondent-JDA any unfettered discretion to depart from this prescribed tenure or to unilaterally curtail the period of lease.

The conduct of the respondent-JDA is, in any event, wholly inconsistent with its present stand. On the one hand, the JDA issued a licence-deed dt.23.08.1995 expressly providing for a tenure of 99 years after accepting the entire consideration payable for such tenure; on the other hand, it subsequently executed the formal lease-deed dt.16.08.2003 for a period of only 25 years. The J.D.A. cannot be permitted to adopt two mutually inconsistent positions in respect of the same transaction, particularly when the petitioner had already fulfilled its entire financial obligation on the basis of the 99-year tenure.

The subsequent execution of a 25-year lease-deed could not, therefore, lawfully override or extinguish the substantive rights that had already accrued to the petitioner pursuant to the auction, payment of the full consideration, and the 99-year grant made by the JDA itself.

Learned counsel for respondent-JDA also contended that the lease-deed executed in the year 2003 is a registered instrument, and any modification, alteration or rectification of its terms can only be adjudicated by a competent Civil Court. In this regard, counsel for the petitioner submitted that in identical matters concerning other petrol pumps, the respondent-JDA itself, at its own level, altered the duration of the lease-deed from 25 years to 99 years. Thus, the JDA cannot adopt two different stands on the very same subject matter. Furthermore, the State Government, vide letter dt.07.08.2014, has acknowledged that the said lease-deed was issued for a period of 25 years instead of 99 years without the prior approval of the State Government, which is improper. Relevant portion of the aforesaid order dt.07.08.2014 reads as under:-

> "'उपरोक्त विषयान्तर्गत निर्देशानुसार लेख है कि प्रश्नगत प्रकरण में लीज अवधि नीलामी की शर्तों के अनुसार 25 वर्ष की गई है, जिसे 99 वर्ष किया जाना संभव नहीं है।
> ***उक्त प्रकरण में राज्य सरकार की पूर्व अनुमति के बिना ही लीज अवधि 99 वर्ष के स्थान पर 25 वर्ष की गई है, जो उचित नहीं है। अतः इस संबंध में यह भी निर्देश प्रदान किये जाते हैं कि भविष्य में इस तरह की गलती नहीं की जावें।***"

This admission by the competent department of the State Government materially supports the petitioner's case and contradict the subsequent stand of the J.D.A. that the 25-year tenure was legally granted.

A public authority cannot apply two different Rules to the same situation. The J.D.A. extended the lease duration from 25 years to 99 years for other petrol-pumps at its own administrative level. It cannot grant the same relief to others while refusing to do so for the petitioner on identical facts. Doing so would be discriminatory and would violate the principle of equality before law.

The respondent-JDA has also raised an objection regarding the maintainability of the writ petition, contending that the petition is barred by gross delay & *laches*. Counsel further submitted that auction was conducted in the year 1995, the reference before the JDA Appellate Tribunal was filed in the year 2008 and after an unexplained delay of nearly nine-years from the date of the execution of the lease-deed dt.16.08.2003, the petitioner is disentitled to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. In this regard, learned counsel for the petitioner submitted that the lease-deed was issued on 16.08.2003 for a period of 25 years. Being aggrieved by the said lease-deed, the petitioner-firm continuously submitted representations before the J.D.A. and the State Government. Subsequently, in the year 2008, the petitioner-firm approached the JDA Appellate Tribunal by way of Reference No.455/2008. Therefore, in the aforesaid circumstances, it was submitted that the cause of action had not arisen prior to the year 2003.

In this regard, it is trite law that the doctrine of delay & *laches* under article 226 of the Constitution is a rule of judicial prudence and self imposed restraint, not an absolute rule of limitation. In adjudicating the question of *laches*, the Court must consider the nature of the right infringed and the status of possession. The petitioner was put into physical possession of the land under an operative licence-deed dt.23.08.1995 executed for 99 years, having discharged the entirety of the financial liability demanded. The chronology of events demonstrates that the petitioner was not sleeping over his rights. Following the execution of the 2003 lease-deed, representations were submitted, culminating in a formal reference proceeding instituted before the JDA Tribunal in the year 2008. A citizen, who *bonafide* pursues administrative or statutory remedies before the concerned authority to resolve an internal discrepancy cannot be penalized for not rushing immediately to the High Court.

Thus, even on the JDA's own interpretation of the applicable rules, there was no justification for reducing the petitioner's tenure from 99 years to 25 years, particularly after the petitioner had paid the entire consideration for the 99-year lease-deed and the J.D.A. had itself issued a licence-deed dt.23.08.1995. Further, the lease-deed was issued for a period of 25 years instead of 99 years without the prior approval of the State Government. The error, if any, was entirely attributable to the respondent-authority and could not lawfully be used to the detriment of the petitioner.

Consequently, the issuance of the lease-deed dt.16.08.2003 for a term of only 25 years, despite the deposit of the entire auction consideration & the statutory requirement and/or understanding that the lease would be for 99-year, is liable to be set aside.

Resultantly, the present petition stands **allowed**. The impugned orders dt.30.09.2003 (Anx-16), dt.10.07.2009 (Anx-27), dt.06.02.2012 (Anx-28), letter dt.24.07.2015 (Anx-31) as well as the letter dt.07.08.2014 (Anx.33) (only to the extent of finding that the lease period from 25 years to 99 years cannot be extended), are hereby quashed & set aside.

The respondent-JDA is directed to rectify the lease period from 25 years to 99 years and to issue a fresh/corrected lease-deed incorporating the lease period of 99 years commencing from the original date of allotment in 1995. It is made clear that the respondent/JDA shall complete the execution & registration formalities of the rectified lease-deed within a period of one month from the date of receipt of certified copy of this order.

Pending application, if any, also stands disposed of.

(VINOD KUMAR BHARWANI),J.

ASHOK