IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. ..... OF 2026
(Arising Out of Special Leave Petition (C) No. 2265 of 2017)

STATE OF HIMACHAL PRADESH ....APPELLANT(S)

VERSUS

BHARTIYA GOVANSH RAKSHAN SANVERDHAN PARISHAD AND ORS. ...RESPONDENT(S)

O R D E R

Leave Granted

2. The present appeal is directed against the judgment in Civil Writ Petition No. 6631 of 2014 (*hereinafter referred to as "**Writ Petition**"*) dated 29.07.2016 (*hereinafter referred to as "**impugned judgment**"*) whereby the High Court of Himachal Pradesh (*hereinafter referred to as "**the High Court**"*) has disposed of the Writ Petition with certain mandatory directions

to be complied by the State of Himachal Pradesh (*hereinafter referred to as "**State**").*

3. The present appeal concerns a very short albeit a critical question of law regarding the validity of the directions of the Constitutional Courts, in the nature of mandamus, directing the State to formulate certain policies, while exercising their writ jurisdiction. The State has filed the present appeal to a limited extent challenging the specific directions issued by the High Court in paragraphs 88, 89, 90 & 91 of the Order dated 02.03.2016 and paragraphs 67, 70, 71 and 75 of the impugned judgment passed by the High Court in the Writ Petition before us.

4. The gravamen of facts essential for disposal of present appeal is that the Respondent No. 1 - Bhartiya Govansh Rakshan Sanverdhan Parishad, H.P. (hereinafter referred to as "**Society**") filed the Writ Petition before the High Court of Himachal Pradesh, inter-alia seeking certain directions. The prayers made in the Writ Petition are reproduced herein below:

> "a) That writ of Mandarnus may kindly be issued directing the respondents either to construct

'Modern Goshalla' in each District in the States including the State of Himachal Pradesh for the shelter of abondoned Cows itself or through the registered organisations like petitioner and further be directed to make necessary arrangements of fodders, medicines and periodically medical check up to the abandoned Cows and Cows who are in the 'Goshalas' or otherwise wandering in streets/roads.

b) That the writ of mandamus may kindly be issued directing the respondents to allot and transfer the required piece of Forest/Government land in the name of registered organisations including the petitioner who run the 'Goshallas' in the States, for pasture or to collect fodders and for grazing the Cows of 'Goshallas'.

c). That the writ of mandamus may kindly be issued directing the respondents to restrict complete ban on slaughter of Cow/Cows in India.

d) That the writ of mandamus may be issuer directing the respondents to take effective steps for registration and affixing tag with number in the ear on every animal/cow belonging to the villagers and other persons who live in town/Cities through Gram Panchayat / Nagar Parishad / Municipal Committee/ Municipal Corporation, under the control and supervision of Animal husbandry Department of the States.

e) That the writ of mandamus may be issued directing the respondents to implement each of the provisions of law in letter & spirit so that the Cows are not smuguled and taken to the slaughter houses in other States…"

5. While dealing with the Writ Petition the High Court passed a slew of directions *vide* Orders dated 07.10.2014, 08.01.2015, 02.05.2015 and 14.10.2015 regarding the protection of cows and constructions of *Gowshallas* and *Gosadans*. These orders are not challenged before us in the petition and also do not form a part of the record.

6. In furtherance of the proceedings in the Writ Petition, the High Court *vide* Order dated 02.03.2016 expanded the scope of the Writ Petition in order to mitigate the hardships faced by the farmers. The High Court took note of the plight of the farmers and the recommendations made by the National Commission on Farmers (*hereinafter referred to as "**NCF**"*) regarding the causes of distress for the farmers. Thus, taking note of all the observations, the High Court passed certain directions to be complied by the State within three months. The relevant portion from the judgment of the High Court is reproduced hereinunder:

> "…88. The farmers are debt ridden. They are not in a position to repay the debts due to ever decreasing prices of their produce. The worst affected are small and marginal farmers. Sometimes, they take recourse to extreme measures such as suicide etc. It is expected from

the State to provide a mechanism to reduce their burden by creating a corpus to waive off their loans at least to the extent of Rs. 50,000/-. Most of the agricultural land in the State of Himachal Pradesh is rainfed. Whenever, there is scanty rain, the crops fail. The State is required to formulate a Scheme providing insurance cover to their crops in consultation with the National Insurance Companies at minimal premium.

89. Accordingly, the State of Himachal Pradesh through the Chief Secretary is directed to implement the broader recommendations made by the National Commission on Farmers (NCF), constituted on November 18, 2004 under the chairmanship of Prof. M.S. Swaminathan and also to consider providing MSP (minimum support price) for the following agricultural products grown/harvested by the farmers in the State of Himachal Pradesh which should be at least 50%' more than the weighted average cost of production to reduce the distress of farming community within three months from today:

.....

90. The State of Himachal Pradesh through the Chief Secretary is also directed to set up State Level Farmers' Commission with representatives of farmers for ensuring dynamic government response to farmers' problems as recommended by the National Commission on Farmers (NCF). The Addl. Chief Secretary (PR), the Addl. Chief Secretary (UD), the Addl. Chief Secretary (AH) are also directed to release five crore each, subject to availability of funds, to the Urban Bodies i.e. Municipal Corporations/Municipal Councils /Nagar Panchayats/Gram Panchayats for the construction of gosadan/gaushalas/cattle sheds, within a period of three months from today. This amount can also be spread over a

> period of time taking into consideration the financial crunch faced by the State Government, as noticed by us in the affidavit filed by the Chief Secretary to the Government of Himachal Pradesh.
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> 91. The State of Himachal Pradesh through Chief Secretary is directed to formulate a Scheme for waiver of loans raised by small marginal farmers, atleast upto Rs. 50,000/- or in the alternative to permit them to pay the loans in installments by reducing their rate of interest, if need be by creating corpus in consultation with Nationalized/ Gramin/Co-operative Banks. The Chief Secretary to the State of Himachal Pradesh is also directed to formulate a Scheme for providing insurance cover to their crops in consultation with National Insurance Companies, within a period of six months from today at minimal premium."

7. The said Writ Petition finally came to be decided *vide* the impugned judgment whereby the High Court majorly reiterated the earlier directions passed *vide* order dated 02.03.2016. The High Court further gave certain directions in the impugned judgment which have challenged by the State The relevant directions as passed by the High Court are as follows:

> "67. Accordingly, the Chief Secretary to the State of Himachal Pradesh is directed to take up the matter again with the Ministry concerned of the

Government of India for declaring MSP for 107 commodities and till then, the State Government is directed to at least formulate Market Intervention Scheme for 107 commodities as per order dated 2.3.2016. There can also be price regulation fund which is in vogue for onion and potatoes. The matter shall be taken up by the Chief Secretary to the State of Himachal Pradesh directly with the Commission for Agricultural Costs and Prices (CACP), Government of India within six weeks from today.

XXX

70. The Court has also directed to constitute the State Agriculture Commission. It has been specifically undertaken in the affidavit that the same is under active consideration of the State Government. The Chief Secretary to the State of Himachal Pradesh is directed to ensure that the State Agriculture Commission is constituted, notified and made functional ·within a period of three months positively.

71. The State Government is also directed to implement Pradhan Mantri Fasal Bima Yojana (PMFBY) in letter and spirit to provide better insurance cover. The State Government has only covered Maize and Paddy in Kharif and Wheat and Barley in Rabi under the cover. The other crops be also included in Pradhan Mantri Fasal Bima Yojana (PMFBY). The State Government is also directed to scrupulously implement Weather Based Crop Insurance Scheme (WBCIS) for all the crops in the State of Himachal Pradesh. The Pradhan Mantri Fasal Bima Yojana (PMFBY) is laudable step and must be implemented in letter and spirit to mitigate the hardship faced by the farmers.

XXX

> 75. The Writ Petition is disposed of with the mandatory directions issued hereinabove. The directions issued by this Court from time to time on 7.10.2014, 8.l.2015, 2.5.2015, 14.10.2015 and 2.3.2016, shall also form integral part of this judgment. Pending application(s), if any, shall stand disposed of."

8. During the course of arguments, it was contended by the learned counsel for the State that in pursuance of the directions given by the High Court pertaining to the original prayers in the Writ Petition, the State has now enacted the Himachal Pradesh Gauvansh Sanrakshan and Samvardhan Act, 2018 (*hereinafter referred to as* ***"the Act"***). It was submitted that the Act has codified all the directions of the High Court *in toto* and therefore, they do not challenge any directions of the High Court concerning the said subject-matter and therefore, they do not wish to press the said issue here. At this stage, even the learned counsel for the Respondent No. 1 agreed that their grievance regarding the maintenance of facilities and welfare of cattle/cows (s) has now been taken care of through the provisions of the Act.

9. Aggrieved by the other directions, the State has filed the present appeal to a limited extent challenging the specific

directions issued by the High Court which can be succinctly summarised as follows:

i. The State (through Chief Secretary) must implement the broader recommendations of the National Commission on Farmers. In furtherance of the recommendations of the NCF, the State must set up a State Level Farmers' Commission (*hereinafter referred to as "**Commission**"*) with farmer representatives, as recommended by the NCF, for dynamic government response to farmers' problems.
ii. The State must formulate a scheme for waiver of loans raised by small and marginal farmers (at least up to ₹50,000) or alternatively allow installment payments with reduced interest rates, possibly by creating a corpus in consultation with nationalized / gramin / cooperative banks.
iii. The Chief Secretary must formulate a scheme for providing crop insurance in consultation with National Insurance Companies at minimal premium, within six months.
iv. The Chief Secretary of Himachal Pradesh must take up the matter with the Ministry concerned of the Government of India for declaring MSP for 107 commodities and until then direct the State Government to formulate a Market Intervention Scheme for those 107 commodities as per the order dated 02.03.2016.
v. The State Government is directed to implement the Pradhan Mantri Fasal Bima Yojana (PMFBY) in letter and spirit, include other crops beyond Maize, Paddy, Wheat and Barley, and also scrupulously implement the Weather Based Crop Insurance Scheme (WBCIS) for all crops.

10. In the light of this submission, we have limited our scope of interference to the extent of assessing the validity of the

directions passed by the High Court regarding the issues of farmers and other allied agrarian directions.

CONTENTIONS OF THE PARTIES

11. The learned counsel for the Appellant, Mr. Anil Nag submits that the High Court passed the impugned directions without affording any opportunity to the appellant to present its case on feasibility of implementation of these directions within the stipulated time frame or on existence of extant schemes for farmer protection.

12. It has been averred by the learned counsel for the Appellant that the High Court acted mechanically in directing constitution of a State Agricultural Commission (*hereinafter referred to as* ***"Commission***") within three months, without considering the administrative and fiscal difficulties of the State. It was further submitted that the proposal to set up such a Commission was already under active consideration pursuant to National Commission for Farmers (*hereinafter referred to as* ***"NCF"***) recommendations, requiring detailed deliberation on financial outlay, resource mobilisation, scope, and the complete process of

selection and appointment of Chairman, Members, Member Secretary and other personnel, including formation of a selection committee, inviting applications, and screening candidates. This entire exercise cannot be completed within three months.

13. It was further contended by the learned counsel for the Appellant that the High Court grossly erred in directing the State to declare MSP for 107 commodities, formulate a Market Intervention Scheme within six weeks, and provide better crop insurance, without even considering technical complexities, reasonable time, or severe financial implications. Moreover, the High Court, even after taking on record the Chief Secretary's affidavit highlighting the State's financial crunch, proceeded to direct a time-bound implementation of its directions.

14. Moreover, it was also contended by the learned counsel for the Appellant that the State has already introduced and implemented a number of schemes for the benefit and welfare of the farmers and agriculture. Schemes like Rashtriya Krishi Vikas Yojna, National Food Security Mission, National Mission on Sustainable Agriculture, National Mission on Agriculture

Extension and Technology, National initiative for Climate Resilient Agriculture, Rajiv Gandhi Micro Irrigation Scheme, etc. have already been undertaken by the State Government in view of the larger goal of welfare of the State and its people.

15. Ms. Radhika Gautam, learned counsel for the Respondents argued that the High Court rightly took note of the fact that stray cattle had become a menace, destroying crops and causing severe economic hardship to farmers, and that the State and local bodies had failed to take meaningful action.

16. The learned counsel for the Respondents vehemently supported the decision of the High Court in expanding the scope of the Writ Petition for mitigation of hardships faced by farmers and cattle owners and submitted that such expansion was necessary in larger public interest.

17. The Respondents further supported the High Court's directions, arguing that the State Government must implement the National Commission on Farmers' recommendations, provide MSP and Market Intervention Schemes, constitute a State Farmers' Commission, ensure low-premium crop insurance, and

waive or restructure loans for small and marginal farmers to address agrarian distress. They contended that these welfare-oriented directions were issued by the High Court in public interest and for protection of farmers and cattle, and hence, did not warrant any interference. Moreover, since the State had participated in compliance proceedings, they could not now challenge the same directions.

ANALYSIS

18. As already discussed above, the Writ Petition was originally filed by the Society seeking reliefs relating to establishment of *Gaushalas/Gosadans*, ban on cow slaughter and other allied prayers. However, during the course of the proceedings, the High Court *suo motu* expanded the scope to address the grievances related to farmers and also agricultural issues. It is needless to mention that the scope of Article 226 of the Indian Constitution is wide and plenary so as to enable the Courts to take *suo motu* cognizance of matters of grave importance. In pursuance to the *suo motu* cognisance taken by the High Court, the impugned directions as stated above were issued by the High Court, apart

from the directions relating to welfare of cattle and establishment of gaushalas and gausadans.

19. While dealing with a public interest litigation, the nature of jurisdiction exercised by the Court is inquisitorial in nature and the proceedings need not strictly follow the ordinary procedure. In such a nature of the proceedings, it is permissible for the court to make a detailed enquiry with regard to the broader aspects of the matter if such an enquiry subserves the greater public interest and has a far reaching effect on the society, rather than merely restricting it to the point for which it was instituted.

20. This Court, in the judgment of ***Nirmal Singh Kahlon vs. State of Punjab***, *(2009) 1 SCC 441*, upheld that the action of the High Court instituting a *suo motu* public interest litigation while dismissing the writ petitions filed by certain selected petitioners. This Court therein held as follows:

> *"*33. The High Court while entertaining the writ petition formed a prima facie opinion as regards the systematic commission of fraud. While dismissing the writ petition filed by the selected candidates, it initiated a suo motu public interest litigation. It was entitled to do so. The nature of jurisdiction exercised by the High Court, as is

> well known, in a private interest litigation and in a public interest litigation is different. Whereas in the latter it is inquisitorial in nature, in the former it is adversarial. In a public interest litigation, the court need not strictly follow the ordinary procedure. It may not only appoint committees but also issue directions upon the State from time to time. (See Indian Bank v. Godhara Nagrik Coop. Credit Society Ltd. [(2008) 12 SCC 541 : (2008) 7 Scale 363] and Raju Ramsing Vasave v. Mahesh Deorao Bhivapurkar [(2008) 9 SCC 54 : (2008) 2 SCC (L&S) 802 : (2008) 12 Scale 252] .)"

21. Nonetheless, it is pertinent to mention here that though the High Courts are vested with vast powers, at the same time, such powers cannot be used unfettered. There cannot be uncontrolled or unguided exercise of these powers. Apart from that, the courts must also keep in mind that in general our legal system is completely adversarial, so there is always a limited scope for the courts to explore the inquisitorial side.

22. Thus, in the present case, it was well within the jurisdiction of the High Court to take *suo motu* cognisance of the issues related to farmers and their plight. However, while exercising its jurisdiction upon the said issue, whether the High Court, while giving directions to the State, travelled beyond its powers as

provided under the Constitution is a controversy that needs to be settled herein.

23. The High Court herein while passing the impugned order has issued certain directions like giving MSPs for certain crops, setting up of State Agricultural Commission, and policy regarding waiver of loan for the farmers. In our opinion, it is in the domain of the legislature or the executive (deriving their powers through delegation), to decide or to legislate on these issues. The directions passed by the High Court are more in the nature of mandamus directing the State to comply with these directions in a time bound manner.

24. Our Constitution embodies the principle of separation of power, with the intent that one body of the government is not entrusted with all the work and at the same time, a system of checks and balances is established to check that no organ acts in excess of their jurisdiction. Thus, as per the division, whether to make or not to make any particular policy or enacting a law; setting up of commissions; etc are the activities which fall within the domain of the legislature or the executive. The Constitution

does not permit the courts to direct or advise the executive in matters concerning policy. In matters of policy, the only permissible judicial intervention is to ensure that the policy has not been framed in total disregard of the law or is not arbitrary.

25. This Court in the judgment of ***State of Meghalaya v. High Court of Meghalaya***, (2016) 11 SCC 245 was dealing with a peculiar situation wherein the High Court on *suo motu* cognisance was concerned with certain provisions of the Meghalaya Lokayukta Act, 2014 dealing with the appointment of members of Lokayukta and also the delay in constituting State Human Rights Commission. The High Court examined the validity of the Meghalaya Lokayukta Act and found that its eligibility criteria were inadequate, particularly when compared to those of other states that allow retired Supreme Court judges, High Court Chief Justices, or High Court judges to serve as Lokayukta. Consequently, the High Court stayed certain provisions of the Act. This Court, in appeal over the judgment of the High Court, set aside the decision of the High Court and held that law-making and legislating is the domain of the legislature

and it is not open for the Courts to substitute their view of what could be a better composition of the panel over what was decided by the law-makers. J. Dipak Mishra, speaking for this Court therein, opened the judgment with certain lines and paragraphs depicting the essence of limited intervention by the judiciary in such situations and the rationale behind it. The relevant paragraphs are as follows:

> "1. The New York Times, in the Editorial, "The Frankfurter Legacy", on 2-9-1962, while stating about the greatness of Felix Frankfurter, chose the following expression:
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> "History will find greatness in Felix Frankfurter as a Justice, not because of the results he reached but because of his attitude toward the process of decision. His guiding lights were detachment, rigorous integrity in dealing with the facts of a case, refusal to resort to unworthy means, no matter how noble the end, and dedication to the Court as an institution. Because he was human, Justice Frankfurter did not always live up to his own ideal. But he taught us the lesson that there is importance in the process."
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> 2. Almost two decades and two years back, the Court in Tata Cellular v. Union of India [Tata Cellular v. Union of India, (1994) 6 SCC 651] referred, with approval, the following passage from Neely, C.J. [Bernard Schwartz, Administrative Law (2nd Edn.) 584.] : (SCC p. 681, para 82)

> "82. … 'I have very few illusions about my own limitations as a Judge and from those limitations I generalise to the inherent limitations of all appellate courts reviewing rate cases. It must be remembered that this Court sees approximately 1262 cases a year with five Judges. I am not an accountant, electrical engineer, financier, banker, stockbroker, or systems management analyst. It is the height of folly to expect Judges intelligently to review a 5000 page record addressing the intricacies of public utility operation.'....."
>
> (**Emphasis Supplied**)

26. A three-judge bench of this Court in ***Census Commr. v. R. Krishnamurthy***, (2015) 2 SCC 796 while dealing with the scope of directions issued by the Courts in nature of mandamus has held that it is not within the domain of the courts to determine whether a policy is good or whether there could be any better policy as the said matter lies within the exclusive domain of the legislature. This Court therein held as follows:

> "33. .....it is clear as noon day that it is not within the domain of the courts to embark upon an enquiry as to whether a particular public policy is wise and acceptable or whether a better policy could be evolved. The court can only interfere if the policy framed is absolutely capricious or not informed by reasons or totally arbitrary and

> founded ipse dixit offending the basic requirement of Article 14 of the Constitution. In certain matters, as often said, there can be opinions and opinions but the court is not expected to sit as an appellate authority on an opinion."

27. It is a trite position that the wisdom of the policy makers cannot be questioned or substituted with another view. The only amenable avenue available for review of policy decisions is when the policy on the face of it appears to be contrary to the law or abridges the fundamental or statutory rights. This position of law has been enunciated by this Court in ***State of M.P. v. Narmada Bachao Andolan***, (2011) 7 SCC 639.

28. Taking apart from the academic discussions on the doctrine of separation of powers and the judicial review of the policy decisions, in practical scenario also, it is only the government that has the resources to take up the on field analysis of the needs and requirements of the people; opinion of the experts on the said subject matter of the policy; the fiscal and administrative leverages available with the State according to their budget to be allocated for the said issues, etc. In our opinion it is almost impossible for the courts to take into consideration all these

aspects solely on the basis of the affidavits of parties produced before it.

29. This Court in the judgment of ***State of Punjab v. Ram Lubhaya Bagga,*** (1998) 4 SCC 117, was dealing with the validity of a medical related policy introduced by the State wherein it held as follows:

> **"**25. …… So far as questioning the validity of governmental policy is concerned in our view it is not normally within the domain of any court, to weigh the pros and cons of the policy or to scrutinize it and test the degree of its beneficial or equitable disposition for the purpose of varying, modifying or annulling it, based on howsoever sound and good reasoning, except where it is arbitrary or violative of any constitutional, statutory or any other provision of law. When Government forms its policy, it is based on a number of circumstances on facts, law including constraints based on its resources. It is also based on expert opinion. It would be dangerous if court is asked to test the utility, beneficial effect of the policy or its appraisal based on facts set out on affidavits. The court would dissuade itself from entering into this realm which belongs to the executive. It is within this matrix that it is to be seen whether the new policy violates Article 21 when it restricts reimbursement on account of its financial constraints."
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> ***(Emphasis Supplied)***

30. This Court in ***Premium Granites v. State of T.N.,*** (1994) 2 SCC 691, has held that it is impermissible for the courts to enter into the domain of public policy and the discretion of bringing in any public policy should solely rest with the State. This Court therein held as follows:

> "54. It is not the domain of the court to embark upon unchartered ocean of public policy in an exercise to consider as to whether a particular public policy is wise or a better public policy can be evolved. Such exercise must be left to the discretion of the executive and legislative authorities as the case may be. The court is called upon to consider the validity of a public policy only when a challenge is made that such policy decision infringes fundamental rights guaranteed by the Constitution of India or any other statutory right……"

31. Thus, from the aforesaid, it emerges that it is a settled proposition of law that it is only the government that has the power to bring in or change a policy on the basis of ground reality. The courts should exercise reasonable restraint while issuing directions in the nature of mandamus related to enactment of certain policies or bringing in of laws/legislations.

32. In the light of the law discussed hereinabove, in the present case, the High Court went on to issue directions without considering or consulting the State on the policies that might already be existing within the State or were under deliberation. As contended by the learned counsel for the Appellant there were already certain policies in place and many were under deliberation by the State.

33. In addition to that the High Court erred in directing the State to set up a State Level Farmer's Commission. Setting up of a commission is a decision which is upon the discretion of the State. Setting up of a commission involved extraneous consideration from the State including the induction of members, laying down the powers, jurisdiction and rules for functioning of the tribunal, gathering administrative and fiscal resources to ensure efficient working, etc.

34. Promulgating a scheme for providing insurance cover for crops, and providing MSPs for certain commodities is also a matter strictly falling within the domain of the executive and the interference by the High Court was not justified. Additionally, we

note that although the High Court recorded the Chief Secretary's submission that the State is facing a financial crunch, it nevertheless proceeded to issue directions without affording the State an opportunity to be heard or consulting it on the matter.

35. In addition to the above, the directions of the High Court to the Union of India as well as the State to implement the recommendations of the NCF are unsustainable. The NCF consists of an expert committee to make recommendations for the farmers and the agricultural practices in the Country. However, the discretion to implement these directions rests with the executive. There are only limited, or to better put it, rare occasions wherein the courts can interfere in policy decisions and those are only in the cases when there is a dearth of governing legislations/rules/policies. As aforestated, in the present case the State already had various policies and schemes running for the welfare of the farmers and thriving of agriculture and the same goes for the Union as well. Therefore, it was not proper for the High Court to direct the State and the Union to implement the recommendations of the NCF.

36. No state of any country has unlimited financial or other resources to spare. With the resources available with them, it is the decision of the State to allocate their finances wisely as per the situation of the State. In our view, the High Court has erred in passing on the directions as referred in paragraphs 67, 70, 71 and 75 of the impugned judgment and directions given by the High Court in Paras 88, 89, 90 & 91 of the Order dated 02.03.2016, and accordingly, the judgment of the High Court is set aside to this extent.

37. With these observations, the present appeal stands partly allowed. Pending applications, if any, shall stand disposed of.

.....J.
[VIKRAM NATH]

.....J.
[SANDEEP MEHTA]

.....J.
[VIJAY BISHNOI]

NEW DELHI;
MAY 14, 2026.