

of transfer made by the Senior Administrative Officer (competent authority).

In the case of G.B.Mahajan & Ors. vs. The Jalgaon Municipal Council & Ors., it was observed in paragraph 14 of the judgment as follows :

"14. On a consideration of the matter, it appears to us that the argument that a project envisaging a self-financing scheme, by reason alone of the particular policy behind it, is beyond the powers of the local authority is somewhat too broadly stated to be acceptable. A project, otherwise legal, does not become any the less permissible by reason alone that the local authority, instead of executing the project itself, had entered into an agreement with a developer for its financing and execution. The criticism of the project being 'unconventional' does not add to or advance the legal contention any further. The question is not whether it is unconventional by the standard of the extant practices, but whether there was something in the law rendering it impermissible. There is, no doubt, a degree of public accountability in all governmental enterprises. But the present question is one of the extent and scope of judicial review over such matters. With the expansion of the State's presence in the field of trade and commerce and of the range of economic and commercial enterprises of Government and its instrumentalities there is an increasing dimension to governmental concern for stimulating efficiency, keeping costs down, improved management methods, prevention of time and cost overruns in projects, balancing of costs against timescales, quality-control, cost benefit ratios etc. In search of these values it might become necessary to adopt appropriate techniques of management of projects with concomitant economic expediences. These are essentially matters of economic policy which lack adjudicative disposition, unless they violate constitutional or legal limits on power or have demonstrable pejorative environmental implications or amount to clear abuse of power. This again is the judicial recognition of administrator's right to trial and error, as long as both trial and error are bona fide and within the limits of authority. We might recall the memorable words of what Justice Brandeis said:

"The discoveries in physical science, the triumphs in invention, attest the value of the process of trial and error. In large measure, these advances have been due to experimentation....."

".....There must be power in the States and the nation to remould, through experimentation, our economic practices and institutions to meet changing social and economic needs....."

