

Rajendra and Others Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Aug-29-1995

Reported in : AIR1996All203

Judge : Ravi S. Dhavan and ;A.B. Srivastava, JJ.

Acts : [Constitution of India](#) - Articles 166 and 226; [Land Acquisition Act, 1894](#) - Sections 4, 6 and 48

Appeal No. : Writ Petn. No. 31024 of 1994

Appellant : Rajendra and Others

Respondent : State of U.P. and Others

Advocate for Def. : Standing Counsel

Advocate for Pet/Ap. : H.K. Singh and ;Sandeep Sharma, Advs.

Judgement :

ORDER

1. The entire case in this writ petition is apparently based on a certain meeting which took place on 5 April, 1990 at 3.00 p.m. in the presence of an Hon'ble Minister for Revenue, while on tour at village Kasna and Ichchhar, District Bulandshahr and certain assurances which were given in the presence of five officials and the Member of the Legislative Assembly of the District, aforesaid. In

reference to certain directions of the Hon'ble Minister and the decision which may have been taken at the meeting, either on the record or off the record, the petitioners apply to the High Court to seek a prerogative writ and by a certificate action, to examine ministerial responsibility.

2. The first basic misconception of the petitioners is that the meeting of 5 April 1990 is a decision of the State. The petitioners call this a government order. This is not so. The conduct of the business of the State will be transacted only in accordance with Art. 166 of the [Constitution of India](#). The issue in the writ petition is that after the notifications under Ss. 4 and 6 of the [Land Acquisition Act, 1894](#), had been published acquiring certain land, the variations had been ordered by the Hon'ble Minister, in deference to the recital in the notification, to be put up into effect. The notifications which are referred to, are No. 10714 Bha.U./XVIII-11-28 Bha.86, dated 1 March 1989, appended as Annexure 1 to the writ petition and No. 2807 Bha. U./XVIII-11-29 Bha.86, dated 31 March 1989, appended as Annexure 2 to the writ petition. The petitioners admit that their land was acquired and they further admit that they have received 90 per cent of the compensation as a consequence of the acquisition proceedings.

3. The petitioners contend that the land was acquired 'for the planned industrial development in the district of Bulandshahr through the U.P. State Industrial Development Corporation Limited, Kanpur. In this regard, they refer to the notification dated 1 March 1989, aforesaid. Thereafter, they contend that the land was transferred to the Greater Noida Industrial Development Authority. Both the organisations, i.e., one for whom the land was acquired and the other to whom the land was transferred subsequently, are parties respondents to the writ petition.

4. The contention of the petitioners is that after the acquisition proceedings they have been rendered as landless and notwithstanding the 90 per cent compensation which they have received. It was understood at the meeting with the Hon'ble Minister that of the area which had been acquired, 10 per cent would be reserved for re-distribution amongst the persons of the category and class to which the petitioners belong. The contention in the writ petition and the submissions made at the Bar are to the effect that but neither had 10 per cent as

balance compensation been paid to the petitioners nor 10 per cent of the area acquired, had been re-distributed and settled with the persons, like the petitioners.

5. The submission of the petitioners is that if the understanding which was had at the meeting of the official with the Hon'ble Minister on 5 April, 1990 is not to be kept, then, the land acquisition proceedings are vitiated. The directions which the petitioners seek from this Court are to execute the decision of the meeting dated 5 April 1990, in effect, by a writ of mandamus and yet follow it by a consequential mandamus that from the land which had been acquired the petitioners and like persons along with them, should receive the benefits of a consequential allotment order. The other relief which is sought, is that until the time the first relief, as has been sought, i.e., allotment and distribution of 10 per cent of the acquired land amongst the petitioners, further development of the area under acquisition by the notifications under Ss. 4 and 6 be restrained.

6. Having heard learned counsel for the petitioners and the submissions made on behalf of them strenuously, this Court is unable to agree with the contentions as made.

7. If the petitioners had received any assurance at the hands of any Hon'ble Minister, then this is a confidence which had been given to them beyond the law. The contention of the petitioners, in so far as seeking reliefs from the High Court is concerned, is not that an award had not been rendered or that the land acquisition proceedings are now to be consigned. In fact, it is otherwise, an award was rendered and 90 per cent of the compensation in pursuance of the award had been received by the petitioners. The contention also is not that the compensation of the acquired land has not been taken and the area to be notified in pursuance of S. 48 of the Act. The petitioners proceed on the hypothesis that the possession of the land had already been had and delivered to the agency for and whose behalf it has been acquired.

8. The petitioners speak of an unfair State action of a commitment made to them but not acted upon. When the land acquisition proceedings were initiated, powers in accordance with law had been exercised unless such powers had been impugned by any person affected by the land acquisition proceedings as not being

in accordance with law. Such is not the contention of the petitioners. They had not challenged the land acquisition proceedings. The Court is not prepared to lend a certificate to them that the meeting as recorded on 5 April 1990 at which the Hon'ble Minister presided, had the sanctity of a government order was in continual inn of land acquisition proceedings under the Act. If it had, then the result of the meeting should have seen a notification as a consequence of the procedure prescribed under the Constitution for the conduct of the business of the government. For whatever it was worth, the deliberations of the meeting are on record. By a certiorari the Court cannot give it a sanctity of an action of the State, as a continuing process or otherwise determined land acquisition proceedings.

9. If the petitioners feel that there was a commitment to them which had been denied and that for such commitment they would like to have the assurance executed, then the High Court is not the forum to question the acts of the Hon'ble Minister of assurances given beyond the procedure established by law. For the politics which the petitioners sought, they will have to find an answer in politics. Of the land acquisition proceedings, the petitioners have not been able to point out any illegality.

10. The Court, thus, denies the petitioners a prerogative writ which they seek, of reliefs beyonds the law.

11. Notwithstanding the aforesaid order of the Court one aspect the Court needs to refer to on the state of the record as brought on behalf of the State Government. When writs are issued by the High Court, it is expected that the respondents arrayed will answer the writ petition on the return by their personal affidavit. In the present case, the counter affidavit has been answered by the Upper Tehsildar, Bulandshahr, deputing himself to file it on behalf of the State of U.P., the Secretary, Revenue Department, Joint Secretary, Director, Land Acquisition, Collector/District Magistrate, Bulandshahr, and the Special Land Acquisition Officer, Bulandshahr. The counter affidavit on record is not an affidavit of responsibility as the respondents so arrayed have evaded return to the petition. Likewise, the Greater Noida Industrial Development Authority has answered the writ petition through an Assistant Manager. The Uttar Pradesh Industrial Area

Development Act, 1976, which creates this Authority, itself recites that the Authority shall be a body corporate and the Chief Executive Officer is its ex officio Member Secretary, the affidavit ought to have been filed by him.

12. Reverting to the issue on the petition, as the writ but has been denied, the petition is dismissed. There will be no order as to costs.

13. Petition dismissed.

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