

SUPREME COURT OF INDIA

Parshottam Jadavji Jani

Vs.

State of Gujarat

C.A.No.1990 of 1970

(S. M. Sikri, C.J.I., G. K. Mitter, K. S. Hegde, A. N. Grover and P. Jaganmohan Reddy, JJ.)

01.04.1971

JUDGEMENT

SIKRI, C.J.:-

1. This appeal, by certificate granted by the High Court of Gujarat under Article 132 and Article 133 (1) (c) of the Constitution of India, is directed against its judgment and order dismissing the present appellant's petition under Article 226 of the Constitution.

2. The appellant is the owner of Survey Nos. 219/1 and 121 situated on the outskirts of Mahuva in Bhavnagar District. By notification dated April 25, 1969, issued under Section 4 of the Land Acquisition Act, 1894, the State Government declared that the above-mentioned lands were needed for the public purpose of construction of an Industrial Estate by the Gujarat Industrial Development Corporation or were likely to be needed for that purpose. On May, 3, 1969 a notice was issued to the appellant by S. O. Collector, Officer on Special Duty, Land Acquisition, informing the appellant that if he had any objection to the acquisition of the lands, he might file objections on or before August 16, 1969. He was further informed that the Officer will hear him or his Counsel at the time

of filing the objections. The appellant filed his objections. He took various points, but we are only concerned with one. He pointed out that the Gujarat Industrial Development Corporation

"has come out with ambitious projects for the establishment of the Industrial estate though, in fact, the land already acquired by the Corporation is in excess of the requirement of the Corporation. I say that the corporation is not in possession of such material as would establish genuineness for the establishment of an industrial estate at Mahuva. I, therefore, claim that the responsible officer should be cross-examined by me for the purpose of showing that the proposed acquisition is not for public purpose and that there is no need to acquire the present lands. The other suitable lands are available and the Corporation has not availed' of the same and that the acquisition needs to be dropped. I say that the contiguous lands to the lands under the first notification are available and it would be more suitable than the present land. I, therefore, submit that the proposed acquisition is male fide inasmuch as my lands are preferred to the other land owners available immediately near the lands required under the first notification."

He accordingly prayed:

"(a) That the officers of the said Corporation which have sought the acquisition and/or such officer I name hereafter be summoned for the purpose of cross-examination

(b) That personal hearing lie granted."

3. It appears that hearing was fixed for September 18, 1969; this date was extended from time to time till November 18, 1969. The appellant did not appear on these dates nor did he apply for any extension of time. His written objections dated August 17/18, 1969 and dated September 18, 1969 were considered and included in the report, under Section 5-A, to the Government.

4. Three points were pressed by the appellant before the High Court. The principal point that the Gujarat Industrial Development Act, 1962 was beyond the legislative competence of the State Legislature no longer survives as this Court has held this Act to be valid in the case of *Ramtanu C. H. Society v. State of Maharashtra*, AIR 1970 SC 1771. The second ground pressed before the High Court was that the establishment of Industrial Area by the Corporation was not a public purpose but a private purpose. In our view the High Court was right in holding that this was a public purpose. The third ground raised before the High Court was strongly pressed before us. According to the learned Counsel the report under Section 5-A of the Land Acquisition Act was vitiated because the Collector had not granted an opportunity to the appellant to cross-examine the officers of the Corporation for the purpose of showing that the purpose for which the Corporation sought to acquire the lands was not a public purpose and there was no need to acquire the appellant's land. The High Court relying on its earlier decision '*Gandalal v. State*, 4 Guj LR 326 = (AIR 1968 Guj 50) held that

"the inquiry under Sec. 5-A (2) is an administrative inquiry and objector is not entitled to cross-examine any officers or members of the acquiring body."

5. Under Section 55 of the Land Acquisition Act certain rules have been made for the guidance of officers in dealing with objections lodged under Section 5A of the Act. These rules are as follows:

"1. Whenever any notification under Section 4 of the Act has been published but the provisions of Section 17 have not been applied and the Collector has under the provision of Section 4 (1) issued notice to the parties interested; and on or before the last day fixed by the Collector in these notices in this behalf any objection is lodged under Section 5A (2), firstly, the Collector shall record the objection in this proceedings, secondly, the Collector shall consider whether the objection is admissible according to these rules.

2. To be admissible (a) an objection must be presented in writing by a party interested in the notified land and must be presented within thirty days after the date of publication of the notification under Sec. 4 or within such period as may be fixed by the Collector; (b) it must allege some specific objections, such as these;

(i) the notified purpose is not genuinely or properly a public purpose;

(ii) the land notified is not suitable for the purpose for which it is notified;

(iii) the land is not so well suited as other land;

(iv) the area proposed is excessive;

(v) the objector's land has been selected maliciously or vexatiously ;

(vi) the acquisition will destroy or Impair the amenity of historical or artistic monuments and places of public resort: will take away important public rights of way or other conveniences or will desecrate religious buildings, graveyard and the like

3. After admitting an objection and after having given the objector an opportunity of being heard either in person or by pleader, the Collector shall decide whether it is desirable to hear oral or documentary evidence, which under Section 14 or Section 40 of the Act, he has power to call for. If evidence tendered by the objector is admitted, the Collector shall also afford the other party an opportunity of rebutting it by other evidence or of cross-examining the witnesses:

If he admits evidence he will fix a time and place of hearing it; and will hear and record it in his proceedings.

4. Agents, other than pleaders, will not be allowed to appear on behalf of persons interested in any enquiry under Section 5-A of the Act.

5. After completing the record of evidence the Collector shall submit his report and recommendations as to each objection, whether inadmissible or admissible for the orders of Government under Section 5-A (2) of the Act."

It seems to us that the rules have been complied with. The appellant was given an opportunity to be heard personally. He chose not to avail himself of that opportunity. The appellant cannot under these rules claim to cross-examine officers of the Corporation, and in our opinion the prayer to cross-examine officers was rightly rejected. Indeed it was a strange request. The officers had not given any evidence before the Collector and we are unable to see what principle entitles the appellant to claim this right. When rules have been framed regulating the enquiry under Section 5-A of the Land Acquisition Act, it is not necessary to consider whether the enquiry is administrative or quasi-judicial and whether rules of natural justice have been complied with, and accordingly we say nothing on this point.

6. In the result the appeal fails and is dismissed with costs.

Appeal dismissed.