SUPREME COURT OF INDIA

Anand Singh

Vs.

State of U.P.

C.A.No.2523 of 2008

(R.N.Raveendhran and R.M.Lodha JJ.)

28.07.2010

JUDGEMENT

R.M.Lodha, J.

1. Of this group of ten appeals, 7 arise from the common judgment and order dated May 6, 2005 passed by the High Court of Judicature at Allahabad. The remaining 3 appeals arise from separate judgments (dated January 18, 2007, March 22, 2007 and April 25, 2007) and in one of them, the common judgment and order dated May 6, 2005 was followed. As identical questions are involved, these appeals were heard together and are being disposed of by this common judgment.

2. The appellants in these appeals have small holdings of land in Manbela, Hamidpur and Jangal Sikri etc., Pargana Haveli, District Gorakhpur in the State of Uttar Pradesh. About 209.515 hectares of land including the land of the appellants was sought to be acquired for the public purpose, namely, for residential colony by the Gorakhpur Development Authority (GDA), Gorakhpur. Vide public notices issued under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (for short, `the Act') on November 22, 2003 and February 20, 2004 notifying for general information that the land mentioned in the schedule appended thereto was needed for the said public purpose. The provisions of sub- section (1) of Section 17 of the Act were also invoked as in the opinion of the Governor, the land proposed to be acquired was urgently required. By use of power under Section 17(4) of the Act, it was stated in the notification that Section 5A of the Act shall not apply. These public notices are said to have been published in the Official Gazette as well as other modes as prescribed in Section 4.

3. On December 28, 2004, a declaration was made under Section 6 of the Act that the land mentioned in the schedule including the subject land was needed for public purpose, namely, for the construction of residential colony under a planned development scheme. By the said notification, the Collector, Gorakhpur was also directed that on expiration of 15 days from the publication of the notice under Section 9(1), the possession of the land mentioned in the schedule may be taken, although no award under Section 11 has been made.

4. The present appellants and the other tenure holders whose land was sought to be acquired pursuant to the aforesaid notifications, approached the High Court by filing writ petitions wherein, inter alia, a plea was raised that there was no justification to invoke urgency clause and there was no material before the Government for dispensing with the enquiry under Section 5A of the Act. They averred that structures and buildings were existing on their respective holdings and even otherwise they are entitled to release of their land from acquisition.

5. The State Government as well as the GDA opposed the writ petitions and justified invocation of urgency clause and the dispensation of summary enquiry under Section 5A as the land was required for providing residential and housing colony for the lower income group, middle income group and higher income group by the GDA.

6. The High Court by its common judgment and order dated May 6, 2005 held that none of the grounds raised by the petitioners in the writ petitions was sustainable and consequently upheld the notifications under challenge. While dealing with the aspect of existence of buildings on the subject land and petitioners' prayer for direction to the State Government to consider deacquisition by exercising its power under Section 48 of the Act, the Court observed that the petitioners may approach the State Government for the redressal of their grievance in accordance with law. As noticed above, in one of the subsequent orders, the High Court has followed the common judgment and order dated May 6, 2005.

7. Be it noticed here that prior to the issuance of the notifications dated November 22, 2003/February 20, 2004 under Section 4(1) read with Sections 17(1) and 17(4) of the Act, somewhere in the month of February, 2000, a Land Selection Committee was constituted to identify the availability of land for a housing colony in or around Gorakhpur. The Committee so constituted made spot inspection in April, 2001 and proposed acquisition of land in nine villages including Manbela, Jungle Sikri @ Khorabar, Khorabar @ Subba Bazar, Salempur @ Mugalpur, Hamidpur etc. However, nothing further was done as the tenure holders opposed the acquisition of their land and the Commissioner, Gorakhpur by his order dated May 2, 2001 stayed proposal submitted by the Land Selection Committee in public interest.

8. Mr. K.B. Sinha, learned senior counsel for the appellants principally raised two-fold submission before us.

> "Firstly, learned senior counsel submitted that invocation of urgency clause under Section 17(1) and dispensation of summary enquiry for the public purpose, namely, `development of residential colony' were wholly unjustified. He contended that such an act of the State was in colourable exercise of power. He would submit that the development of residential colony takes sufficiently long time and does not necessitate dispensation with the enquiry and no exceptional circumstances have been brought on record by the Government that may justify exercise of such extraordinary power. Secondly, learned senior counsel submitted that in view of the fact that the

> appellants have constructed their residential houses much before the issuance of impugned notifications, the State must exercise its power under Section 48 and release their land from acquisition. He would submit that the State Government has adopted a policy of pick and choose inasmuch as some land has been released from acquisition while the appellants' land has not been considered for being released."

9. Learned counsel for the other appellants adopted the arguments of Mr. K.B. Sinha. Insofar as Civil Appeal No. 2703 of 2008 is concerned, learned counsel submitted that in respect of the land under consideration in this appeal, a Degree College is in existence and this aspect has been overlooked by the Government while issuing impugned notifications.

10. Mr. Dinesh Dwivedi, learned senior counsel for the State of Uttar Pradesh as well as Mr. Irshad Ahmad, learned counsel for the GDA justified the impugned notifications and submitted that the State Government has acted within its competence and power in invoking urgency clause and dispensation of enquiry under Section 5A for the public purpose viz., development of residential colony since in Gorakhpur housing was urgently required for various groups of the society.

> "They submitted that there is no impediment for the State Government in invoking urgency clause for the public purpose of housing. On behalf of the GDA, it was contended that many steps have been taken in developing the land acquired under the impugned notifications inasmuch as water line, electric line, sewerage line, drainage etc. have been laid and roads constructed. In the written arguments submitted by the GDA, it has been stated that the total cost of development of the acquired land is Rs. 8,85,14,000/- and out of which 5,28,00,000/- have already been spent and about 60% work has already been completed. It has also been submitted by the GDA that after the award was made, compensation amount has been deposited and barring appellants and 6-7 other persons, all land owners have accepted compensation. As regards appellants' land, it is stated that structures have been put up subsequent to the issuance of impugned notifications."

11. Learned senior counsel and counsel for the parties cited some decisions of this Court in support of their respective submissions. We shall refer to them appropriately a little later.

12. In the light of the contentions of the parties, the question for our consideration is as to whether the impugned notifications dated November 22, 2003/February 20, 2004 invoking urgency clause and dispensation of enquiry under Section 5A for the public purpose viz., `development of residential colony' are legal and valid and if the answer is in negative, whether on the facts and in the circumstances, the appellants are entitled to any relief.

13. Before we advert to the aforesaid question, it is appropriate that we briefly notice the relevant provisions contained in the Act. The Act was enacted for the acquisition of land needed for public purposes and for companies and for determining the amount of compensation to be made on such acquisition. Section 4 makes a provision for publication of

preliminary notification notifying that land mentioned therein is needed for a public purpose. It provides for the mode of publication of such notification and empowers the authorized officers to make survey and set out the boundaries of the land proposed to be taken amongst other acts as provided in the said Section. Section 5A confers a right on the person interested in any land which has been notified under Section 4(1) as being needed for a public purpose or likely to be needed for public purpose to object to the acquisition of the land. It provides that the objector shall be provided an opportunity of hearing and after hearing all such objections and after making such further enquiry, the Collector may submit his report to the appropriate government along with his recommendations on the objections and the record of proceedings. Section 6 provides for declaration of intended acquisition in the mode prescribed thereunder. The declaration made under Section 6 is conclusive evidence that the land is needed for a public purpose and after making such declaration, the appropriate government may acquire the land in the manner provided in subsequent provisions. Section 6 also prescribes time limit in making such declaration. Section 9 provides a public notice to be given by the Collector stating that the government intends to take possession of the land and that claims to compensation for all interests in such land may be made to him. As per Section 11, the Collector is required to enquire into the objections that may be received from the persons interested pursuant to the notice issued under Section 9 and determine the award of compensation, inter alia by enquiring into the value of the land and the respective interests of the persons claiming compensation. Section 11-A prescribes the limitation for making an award under Section 11. Section 16 provides for taking possession of the land after the Collector has made an award under Section 11. The special powers in cases of urgency and unforeseen emergency are conferred upon the government under Section 17. Sub-section (1) thereof provides that in case of urgency the appropriate government may direct the Collector to take possession of any land needed for public purpose on expiration of fifteen days from the publication of the notice mentioned in Section 9, although no award has been made. Sub-section (2) confers power on the appropriate government to acquire the immediate possession of the land for the purposes specified thereunder in the cases of unforeseen emergency. Sub-section (3A), however mandates that before taking possession of any land under sub-section (1) or sub-section (2), the Collector shall tender payment of 80% of the compensation as estimated by him to the persons entitled thereto and pay the said compensation to them unless prevented by the contingencies under Section 31(2). Sub- section (4) empowers the government to direct that the provisions of Section 5A shall not apply, on its satisfaction that the provisions contained in sub-section (1) or sub-section (2) are applicable and a declaration may be made under Section 6 after the publication of the notification under Section 4(1).

> "Insofar as Uttar Pradesh is concerned, sub-section (1A) has been inserted after sub-section (1) of Section 17 which provides that the power to take possession under sub-section (1) may also be exercised, inter alia, if the land is required for `planned development'. Section 48 gives liberty to the government to withdraw from acquisition of any land."

14. The matters involving invocation of urgency clause and dispensation of the enquiry under Section 5A have come up for consideration before this Court from time to time. In Raja

Anand Brahma Shah v. State of Uttar Pradesh and Ors.1, this Court observed that the opinion of the government formed under Section 17(4) of the Act can be challenged as ultra *vires*[1] in a court of law, if it could be shown that the government never applied its mind to the matter or that the action of the government is mala fide.

15. In case of *Jage Ram and Ors. vs. State of Haryana and Ors.*[2] while considering the urgency provision contained in Section 17, this Court held that merely because there was some laxity at an earlier stage, it cannot be inferred that on the date the notification was issued there was no urgency. It was held that the conclusion of the government in a given case that there was urgency is entitled to weight, if not conclusive.

16. A three-Judge Bench of this Court in *Narayan Govind Gavate and Ors. v. State of Maharashtra and Ors.*[3] extensively considered Section 17 of the Act vis-`-vis extent of judicial review. That was a case wherein the public purpose recited in the notification was `development and utilization of said land as a residential and industrial area'. This Court stated the legal position as follows:

> "37. We think that Section 17(4) cannot be read in isolation from Section 4(1) and 5-A of the Act. The immediate purpose of a notification under Section 4(1) of the Act is to enable those who may have any objections to make to lodge them for purposes of an enquiry under Section 5-A of the Act. It is true that, although only 30 days from the notification under Section 4(1) are given for the filing of these objections under Section 5-A of the Act, yet, sometimes the proceedings under Section 5-A are unduly prolonged. But, considering the nature of the objections which are capable of being successfully taken under Section 5-A, it is difficult to see why the summary enquiry should not be concluded quite expeditiously. In view of the authorities of this Court, the existence of what are prima facie public purposes, such as the one present in the cases before us, cannot be successfully challenged at all by objectors. It is rare to find a case in which objections to the validity of a public purpose of an acquisition can even be stated in a form in which the challenge could succeed. Indeed, questions relating to validity of the notification on the ground of mala fides do not seem to us to be ordinarily open in a summary enquiry under Section 5-A of the Act.
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> Hence, there seems to us to be little difficulty in completing enquiries contemplated by Section 5-A of the Act very expeditiously.
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> 38. Now, the purpose of Section 17(4) of the Act is, obviously, not merely to confine action under it to waste and arable land but also to situations in which an inquiry under Section 5-A will serve no useful purpose, or, for some overriding reason, it should be dispensed with. The mind of the officer or authority concerned has to be applied to the question whether there is an urgency of such a nature that even the summary proceedings under Section 5-A of the Act should be eliminated. It is not just the existence of an urgency but the need to dispense with an inquiry under Section 5-A which has to be considered.

39. Section 17(2) deals with a case in which an enquiry under Section 5-A of the Act could not possibly serve any useful purpose. Sudden change of the course of a river would leave no option if essential communications have to be maintained. It results in more or less indicating, by an operation of natural physical forces beyond human control, what land should be urgently taken possession of. Hence, it offers no difficulty in applying Section 17(4) in public interest. And, the particulars of what is obviously to be done in public interest need not be concealed when its validity is questioned in a Court of justice. Other cases may raise questions involving consideration of facts which are especially within the knowledge of the authorities concerned. And, if they do not discharge their special burden, imposed by Section 106, Evidence Act, without even disclosing a sufficient reason for their abstention from disclosure, they have to take the consequences which flow from the non-production of the best evidence which could be produced on behalf of the State if its stand was correct.

40. In the case before us, the public purpose indicated is the development of an area for industrial and residential purposes. This, in itself, on the face of it, does not call for any such action, barring exceptional circumstances, as to make immediate possession, without holding even a summary enquiry under Section 5-A of the Act, imperative. On the other hand, such schemes generally take sufficient period of time to enable at least summary inquiries under Section 5-A of the Act to be completed without any impediment whatsoever to the execution of the scheme. Therefore, the very statement of the public purpose for which the land was to be acquired indicated the absence of such urgency, on the apparent facts of the case, as to require the elimination of an enquiry under Section 5-A of the Act.

41. Again, the uniform and set recital of a formula, like a ritual or mantra, apparently applied mechanically to every case, itself indicated that the mind of the Commissioner concerned was only applied to the question whether the land was waste or arable and whether its acquisition is urgently needed. Nothing beyond that seems to have been considered. The recital itself shows that the mind of the Commissioner was not applied at all to the question whether the urgency is of such a nature as to require elimination of the enquiry under Section 5- A of the Act. If it was, at least the notifications gave no inkling of it at all. On the other hand, its literal meaning was that nothing beyond matters stated there were considered.

42. All schemes relating to development of industrial and residential areas must be urgent in the context of the country's need for increased production and more residential accommodation. Yet, the very nature of such schemes of development does not appear to demand such emergent action as to eliminate summary enquiries under Section 5-A of the Act. There is no indication whatsoever in the affidavit filed on behalf of the State that the mind of the Commissioner was applied at all to the question whether it was a case necessitating the elimination of the enquiry under

Section 5-A of the Act. The recitals in the notifications, on the other hand, indicate that elimination of the enquiry under Section 5-A of the Act was treated as an automatic consequence of the opinion formed on other matters.

The recital does not say at all that any opinion was formed on the need to dispense with the enquiry under Section 5-A of the Act. It is certainly a case in which the recital was at least defective. The burden, therefore, rested upon the State to remove the defect, if possible, by evidence to show that some exceptional circumstances which necessitated the elimination of an enquiry under Section 5-A of the Act and that the mind of the Commissioner was applied to this essential question. It seems to us that the High Court correctly applied the provisions of Section 106 of the Evidence Act to place the burden upon the State to prove those special circumstances, although it also appears to us that the High Court was not quite correct in stating its view in such a manner as to make it appear that some part of the initial burden of the petitioners under Sections 101 and 102 of the Evidence Act had been displaced by the failure of the State to discharge its duty under Section 106 of the Act. The correct way of putting it would have been to say that the failure of the State to produce the evidence of facts especially within the knowledge of its officials, which rested upon it under Section 106 of the Evidence Act, taken together with the attendant facts and circumstances, including the contents of recitals, had enabled the petitioners to discharge their burden under Sections 101 and 102 of the Evidence Act."

17. In *State of Punjab and Anr. v. Gurdial Singh and Ors.*[4] while dealing with the invocation of Section 17 of the Act for the public purpose, namely, grain market, this Court stated that compulsory taking of a man's property is a serious matter and the smaller the man the more serious the matter. This Court observed that hearing the owner before depriving him is both reasonable and pre-emptive of arbitrariness and denial of this administrative fairness is constitutional anathema except for good reasons. It was further observed that save in real urgency where public interest does not brook even the minimum time needed to give a hearing land acquisition authorities should not, having regard to Articles 14 (and 19), burke an enquiry under Section 17 of the Act.

18. In the case of *Deepak Pahwa and Ors. v. Lt. Governor of Delhi and Ors.*[5], a three-Judge Bench of this Court was concerned with the challenge to the notification issued under Sections 4 and 17 of the Act for the public purpose viz.;

"`construction of a New Transmitting Station for the Airport'. While noticing the decision of this Court in Jage Ram2, the Court observed that very often the delay makes the problem more and more acute and increases the urgency of the necessity for acquisition. It was further observed that pre- notification delay would not render the invocation of the urgency provisions void."

19. In the case of *State of U.P. v. Smt. Pista Devi and Ors.*[6], this Court was concerned with the question of urgency in acquisition of large tract of land by the Meerut Development

Authority for its housing scheme with the object of providing housing accommodation to the residents of Meerut city. The notification under Section 4 read with Section 17(1) and (4) was published in the U.P. Gazette on July 12, 1980 and the declaration under Section 6 of the Act was issued on May 1, 1981. The possession of the land was taken and handed over to the Meerut Development Authority in July 1982. Thereafter, about 17 persons who owned in all about 40 acres of land out of the total of about 412 acres acquired, filed writ petitions in the High Court challenging the aforesaid notifications on the ground that the action of the government in invoking Section Delhi 17(1) of the Act and dispensing with the enquiry under Section 5A of the Act was not called for in the circumstances of the case. The High Court after hearing the parties held that the dispensation with the enquiry under Section 5A was invalid one and, accordingly, quashed the notifications. Aggrieved by the judgment of the High Court, the State of U.P. as well as Meerut Development Authority preferred appeal before this Court by special leave. This Court set aside the judgment of the High Court. While doing so, this Court held thus:

> "6. What was said by the learned Judge in the context of provision of housing accommodation to Harijans is equally true about the problem of providing housing accommodation to all persons in the country today having regard to the enormous growth of population in the country. The observation made in the above decision of the High Court of Andhra Pradesh is quoted with approval by this Court in *Deepak Pahwa v. Lt. Governor of Delhi*[7], even though in the above decision the Court found that it was not necessary to say anything about the post- notification delay. We are of the view that in the facts and circumstances of this case the post-notification delay of nearly one year is not by itself sufficient to hold that the decision taken by the State Government under Section 17(1) and (4) of the Act at the time of the issue of the notification under Section 4(1) of the Act was either improper or illegal.
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> 7. It was next contended that in the large extent of land acquired which was about 412 acres there were some buildings here and there and so the acquisition of those parts of the land on which buildings were situated was unjustified since those portions were not either waste or arable lands which could be dealt with under Section 17(1) of the Act. This contention has not been considered by the High Court. We do not, however, find any substance in it. The government was not acquiring any property which was substantially covered by buildings. It acquired about 412 acres of land on the outskirts of Meerut city which was described as arable land by the Collector. It may be true that here and there were a few super- structures. In a case of this nature where a large extent of land is being acquired for planned development of the urban area it would not be proper to leave the small portions over which some super- structures have been constructed out of the development scheme. In such a situation where there is real urgency it would be difficult to apply Section 5- A of the Act in the case of few bits of land on which some structures are standing and to exempt the rest of the property from its application. Whether the land in question is waste or arable land has to be judged by looking at the general nature and condition of the land. It is not necessary in this case to consider any further the legality or the propriety of the application of

Section 17(1) of the Act to such portions of land proposed to be acquired, on which super-structures were standing because of the special provision which is inserted as sub-section (1-A) of Section 17 of the Act by the Land Acquisition (U.P. Amendment) Act (22 of 1954) which reads thus:

"(1-A) The power to take possession under sub- section (1) may also be exercised in the case of land other than waste or arable land, where the land is acquired for or in connection with sanitary improvements of any kind or planned development."

8. It is no doubt true that in the notification issued under Section 4 of the Act while exempting the application of Section 5-A of the Act to the proceedings, the State Government had stated that the land in question was arable land and it had not specifically referred to sub-section (1-A) of Section 17 of the Act under which it could take possession of land other than waste and arable land by applying the urgency clause. The mere omission to refer expressly Section 17(1-A) of the Act in the notification cannot be considered to be fatal in this case as long as the government had the power in that sub-section to take lands other than waste and arable lands also by invoking the urgency clause. Whenever power under Section 17(1) is invoked the government automatically becomes entitled to take possession of land other than waste and arable lands by virtue of sub-section (1-A) of Section 17 without further declaration where the acquisition is for sanitary improvement or planned development. In the present case the acquisition is for planned development. We do not, therefore find any substance in the above contention."

20. In *Rajasthan Housing Board and Ors. v. Shri Kishan and Ors.*[8], a large extent of land was acquired for the benefit of Rajasthan Housing Board. While dealing with the provisions contained in Sections 17(4) and (1), 4 and 6 of Rajasthan Land Acquisition Act, 1953 (the provisions being pari materia to the provisions of the Act), this Court held that the satisfaction under Section 17(4) is a subjective one and that so long as there is material upon which the Government could have formed the said satisfaction fairly, the Court would not interfere nor would it examine the material as an appellate authority. This Court noticed that in view of the time bound programme stipulated by the lender (HUDCO) and a large number of engineers and other subordinate staff for carrying out the said work having already been appointed, the satisfaction of the State Government that holding an enquiry under Section 5A would result in uncalled for delay endangering the entire scheme and time schedule of the Housing Board could not be faulted.

21. In *Chameli Singh and Ors. v. State of U.P. and Anr.*[9] , a three-Judge Bench of this Court was seized with a matter wherein acquisition of the land was for the public purpose, namely, for providing `houses to Scheduled Castes'.

"Dealing with a challenge to the opinion of urgency formed by the appropriate government and its satisfaction to eliminate the enquiry under Section 5A, this Court observed that the opinion of the government is entitled to great weight unless it is

vitiated by mala fides or colourable exercise of power. Noticing the earlier judgments of this Court, particularly, Pista Devi6, Deepak Pahwa5, Jage Ram2, Narayan Govind Gavate3 and Rajasthan Housing Board8, this Court said:

"14. What was said by Chinnappa Reddy, J. in the context of provisions of housing accommodation to Harijans is equally applied to the problem of providing housing accommodation to all persons in the country in *State of U.P. v. Pista Devi*[10], holding that today having regard to the enormous growth of population, urgency clause for planned development in urban areas was upheld by a two- Judge Bench. The ratio of *Kasireddy Papaiah case*[11], was quoted with approval by a three-Judge Bench in *Deepak Pahwa v. Lt. Governor of Delhi*[12]. The delay by the officials was held to be not a ground to set at naught the power to exercise urgency clause in both the above decisions. It would thus be clear that housing accommodation to the Dalits and Tribes is in acute shortage and the State has undertaken as its economic policy under planned expenditure to provide shelter to them on a war footing, in compliance with the constitutional obligation undertaken as a member of the UNO to the resolutions referred to hereinbefore.

15. The question, therefore, is whether invocation of urgency clause under Section 17(4) dispensing with inquiry under Section 5-A is arbitrary or is unwarranted for providing housing construction for the poor. In *Aflatoon v. Lt. Governor of Delhi*[13], a Constitution Bench of this Court had upheld the exercise of the power by the State under Section 17(4) dispensing with the inquiry under Section 5-A for the planned development of Delhi. In Pista Devi case this Court while considering the legality of the exercise of the power under Section 17(4) exercised by the State Government dispensing with the inquiry under Section 5-A for acquiring housing accommodation for planned development of Meerut, had held that providing housing accommodation is national urgency of which court should take judicial notice. The pre-notification and post-notification delay caused by the officer concerned does not create a cause to hold that there is no urgency. Housing conditions of Dalits all over the country continue to be miserable even till date and is a fact of which courts are bound to take judicial notice. The ratio of Deepak Pahwa case was followed. In that case a three-Judge Bench of this Court had upheld the notification issued under Section 17(4), even though lapse of time of 8 years had occurred due to inter-departmental discussions before receiving the notification. That itself was considered to be a ground to invoke urgency clause.

It was further held that delay on the part of the lethargic officials to take further action in the matter of acquisition was not sufficient to nullify the urgency which existed at the time of the issuance of the notification and to hold that there was never any urgency. In *Jage Ram v. State of Haryana*[14], this Court upheld the exercise of the power of urgency under Section 17(4) and had held that the lethargy on the part of the officers at an early stage was not relevant to decide whether on the day of the notification there was urgency or not. Conclusion of the Government that there was

urgency, though not conclusive, is entitled to create weight. In Deepak Pahwa case this Court had held that very often persons interested in the land proposed to be acquired may make representations to the authorities concerned against the proposed writ petition that is bound to result in multiplicity of enquiries, communications and discussions leading invariably to delay in the execution of even urgent projects. Very often delay makes the problem more and more acute and increases urgency of the necessity for acquisition. In *Rajasthan Housing Board v. Shri Kishan*[15], this Court had held that it must be remembered that the satisfaction under Section 17(4) is a subjective one and that so long as there is material upon which Government could have formed the said satisfaction fairly, the Court would not interfere nor would it examine the material as an appellate authority. In *State of U.P. v. Keshav Prasad Singh*[16], this Court had held that the Government was entitled to exercise the power under Section 17(4) invoking urgency clause and to dispense with inquiry under Section 5-A when the urgency was noticed on the facts available on record.

In Narayan Govind Gavate case a three-Judge Bench of this Court had held that Section 17(4) cannot be read in isolation from Section 4(1) and Section 5-A of the Act. Although 30 days from the notification under Section 4(1) are given for filing objections under Section 5-A, inquiry thereunder unduly gets prolonged. It is difficult to see why the summary inquiry could not be completed quite expeditiously.

Nonetheless, this Court held the existence of prima facie public purpose such as the one present in those cases before the Court could not be successfully challenged at all by the objectors. It further held that it was open to the authority to take summary inquiry under Section 5-A and to complete inquiry very expeditiously. It was emphasised that:

"... The mind of the officer or authority concerned has to be applied to the question whether there is an urgency of such a nature that even the summary proceedings under Section 5-A of the Act should be eliminated. It is not just the existence of an urgency but the need to dispense with an inquiry under Section 5-A which has to be considered."

16. It would thus be seen that this Court emphasised the holding of an inquiry on the facts peculiar to that case. Very often the officials, due to apathy in implementation of the policy and programmes of the Government, themselves adopt dilatory tactics to create cause for the owner of the land to challenge the validity or legality of the exercise of the power to defeat the urgency existing on the date of taking decision under Section 17(4) to dispense with Section 5-A inquiry.

17. It is true that there was pre-notification and post- notification delay on the part of the officers to finalise and publish the notification. But those facts were present before the Government when it invoked urgency clause and dispensed with inquiry under Section 5-A. As held by this Court, the delay by itself accelerates the urgency: Larger

the delay, greater be the urgency. So long as the unhygienic conditions and deplorable housing needs of Dalits, Tribes and the poor are not solved or fulfilled, the urgency continues to subsist. When the Government on the basis of the material, constitutional and international obligation, formed its opinion of urgency, the court, not being an appellate forum, would not disturb the finding unless the court conclusively finds the exercise of the power mala fide. Providing house sites to the Dalits, Tribes and the poor itself is a national problem and a constitutional obligation. So long as the problem is not solved and the need is not fulfilled, the urgency continues to subsist. The State is expending money to relieve the deplorable housing condition in which they live by providing decent housing accommodation with better sanitary conditions. The lethargy on the part of the officers for pre and post-notification delay would not render the exercise of the power to invoke urgency clause invalid on that account."

22. A three-Judge Bench of this Court in *Meerut Development Authority & Ors. v. Satbir Singh and Ors.*[17] held that the acquisition for housing development is an urgent purpose and exercise of power under Section 17(4) dispensing with the enquiry under Section 5A is not invalid.

23. In *Om Prakash and Anr. v. State of U.P. and Ors.*[18], the question presented before this Court for consideration was, inter alia, whether the State Government was justified in invoking urgency clause under Section 17(1) and dispensing with the enquiry under Section 5A for acquisition of the land for residential and industrial purpose for the purposes of New Okhla Industrial Development Authority (NOIDA). The argument on behalf of the appellants therein was that there was no relevant material with the appropriate government to enable it to arrive at its subjective satisfaction about dispensing with the enquiry under Section 5A in connection with the subject acquisition and there was delay of more than one year in issuance of declaration under Section 6 after issuance and publication of notification under Section 4 read with Section 17 of the Act. This Court observed :

".....Even that apart, if that was the urgency suggested by NOIDA on 14-12-1989, we fail to appreciate as to how the State authorities did not respond to that proposal equally urgently and why they issued notification under Section 4 read with Section 17(4) after one year in January 1991. On this aspect, no explanation whatsoever was furnished by the respondent-State authorities before the High Court. It is also interesting to note that even after dispensing with inquiry under Section 5-A pursuant to the exercise of powers under Section 17(4) on 5-1- 1991, Section 6 notification saw the light of day only on 7-1-1992. If the urgency was of such a nature that it could not brook the delay on account of Section 5-A proceedings, it is difficult to appreciate as to why Section 6 notification in the present case could be issued only after one year from the issuance of Section 4 notification. No explanation for this delay is forthcoming on record. This also shows that according to the State authorities, there was no real urgency underlying dispensing with Section 5-A inquiry despite NOIDA suggesting at the top of its voice about the need for urgently acquiring the lands for the development of Sector 43 and other sectors."

Noticing the conflict in the decisions of this Court in Narayan Govind Gavate3 and Pista Devi6, the Bench said:

"20. It is no doubt true that the aforesaid decision of the three-Judge Bench of this Court was explained by a latter two-Judge Bench decision of this Court in *State of U.P. v. Pista Devi*[19], as being confined to the fact situation in those days when it was rendered. However, it is trite to note that the latter Bench of two learned Judges of this Court could not have laid down any legal proposition by way of a ratio which was contrary to the earlier decision of the three-Judge Bench in Narayan Govind Gavate. In fact, both these decisions referred to the fact situations in the light of which they were rendered."

24. In the case of *Union of India and Ors. v. Mukesh Hans*[20], a three-Judge Bench of this Court while dealing with the interpretation of Section 17(4) of the Act and the procedure to be followed by the appropriate government while dispensing with the enquiry contemplated under Section 5A of the Act said:

"31. Section 17(4) as noticed above, provides that in cases where the appropriate Government has come to the conclusion that there exists an urgency or unforeseen emergency as required under sub-section (1) or (2) of Section 17, it may direct that the provisions of Section 5-A shall not apply and if such direction is given then Section 5-A inquiry can be dispensed with and a declaration may be made under Section 6 on publication of Section 4(1) notification and possession can be made.

32. A careful perusal of this provision which is an exception to the normal mode of acquisition contemplated under the Act shows that mere existence of urgency or unforeseen emergency though is a condition precedent for invoking Section 17(4), that by itself is not sufficient to direct the dispensation of the Section 5-A inquiry. It requires an opinion to be formed by the Government concerned that along with the existence of such urgency or unforeseen emergency there is also a need for dispensing with Section 5-A inquiry which indicates that the legislature intended the appropriate Government to apply its mind before dispensing with Section 5-A inquiry. It also indicates that mere existence of an urgency under Section 17(1) or unforeseen emergency under Section 17(2) would not by itself be sufficient for dispensing with Section 5-A inquiry. If that was not the intention of the legislature then the latter part of sub-section (4) of Section 17 would not have been necessary and the legislature in Sections 17(1) and (2) itself could have incorporated that in such situation of existence of urgency or unforeseen emergency automatically Section 5-A inquiry will be dispensed with. But then that is not the language of the section which in our opinion requires the appropriate Government to further consider the need for dispensing with Section 5-A inquiry in spite of the existence of unforeseen emergency. This understanding of ours as to the requirement of an application of mind by the appropriate Government while dispensing with Section 5-A inquiry does

not mean that in each and every case when there is an urgency contemplated under Section 17(1) and unforeseen emergency contemplated under Section 17(2) exists that by itself would not contain the need for dispensing with Section 5-A inquiry. It is possible in a given case the urgency noticed by the appropriate Government under Section 17(1) or the unforeseen emergency under Section 17(2) itself may be of such degree that it could require the appropriate Government on that very basis to dispense with the inquiry under Section 5-A but then there is a need for application of mind by the appropriate Government that such an urgency for dispensation of the Section 5-A inquiry is inherent in the two types of urgencies contemplated under Sections 17(1) and (2) of the Act.

33. An argument was sought to be advanced on behalf of the appellants that once the appropriate Government comes to the conclusion that there is an urgency or unforeseen emergency under Sections 17(1) and (2), the dispensation with inquiry under Section 5-A becomes automatic and the same can be done by a composite order meaning thereby that there is no need for the appropriate Government to separately apply its mind for any further emergency for dispensation with an inquiry under Section 5-A.

We are unable to agree with the above argument because sub-section (4) of Section 17 itself indicates that the "Government may direct that the provisions of Section 5-A shall not apply" (emphasis supplied) which makes it clear that not in every case where the appropriate Government has come to the conclusion that there is urgency and under sub-section (1) or unforeseen emergency under sub-section (2) of Section 17, the Government will ipso facto have to direct the dispensation of the inquiry. For this we do find support from a judgment of this Court in the case of *Nandeshwar Prasad v. State of U.P.*[21], wherein considering the language of Section 17 of the Act which was then referable to waste or arable land and the U.P. Amendment to the said section, this Court held thus:

"It will be seen that Section 17(1) gives power to the Government to direct the Collector, though no award has been made under Section 11, to take possession of any waste or arable land needed for public purpose and such land thereupon vests absolutely in the Government free from all encumbrances. If action is taken under Section 17(1), taking possession and vesting which are provided in Section 16 after the award under Section 11 are accelerated and can take place fifteen days after the publication of the notice under Section 9. Then comes Section 17(4) which provides that in case of any land to which the provisions of sub-section (1) are applicable, the Government may direct that the provisions of Section 5-A shall not apply and if it does so direct, a declaration may be made under Section 6 in respect of the land at any time after the publication of the notification under Section 4(1). It will be seen that it is not necessary even where the Government makes a direction under Section 17(1) that it should also make a direction under Section 17(4). If the Government makes a direction only under Section 17(1) the procedure under Section 5-A would still have

to be followed before a notification under Section 6 is issued, though after that procedure has been followed and a notification under Section 6 is issued the Collector gets the power to take possession of the land after the notice under Section 9 without waiting for the award and on such taking possession the land shall vest absolutely in Government free from all encumbrances. It is only when the Government also makes a declaration under Section 17(4) that it becomes unnecessary to take action under Section 5-A and make a report thereunder. It may be that generally where an order is made under Section 17(1), an order under Section 17(4) is also passed; but in law it is not necessary that this should be so. It will also be seen that under the Land Acquisition Act an order under Section 17(1) or Section 17(4) can only be passed with respect to waste or arable land and it cannot be passed with respect to land which is not waste or arable and on which buildings stand."

(emphasis supplied)

34. A careful reading of the above judgment shows that this Court in the said Nandeshwar Prasad case has also held that there should be an application of mind to the facts of the case with special reference to this concession of Section 5-A inquiry under the Act.

35. At this stage, it is relevant to notice that the limited right given to an owner/person interested under Section 5-A of the Act to object to the acquisition proceedings is not an empty formality and is a substantive right, which can be taken away for good and valid reason and within the limitations prescribed under Section 17(4) of the Act. The object and importance of Section 5-A inquiry was noticed by this Court in the case of *Munshi Singh v. Union of India*[22], wherein this Court held thus:

"7. Section 5-A embodies a very just and wholesome principle that a person whose property is being or is intended to be acquired should have a proper and reasonable opportunity of persuading the authorities concerned that acquisition of the property belonging to that person should not be made.

... The legislature has, therefore, made complete provisions for the persons interested to file objections against the proposed acquisition and for the disposal of their objections. It is only in cases of urgency that special powers have been conferred on the appropriate Government to dispense with the provisions of Section 5-A:"

36. It is clear from the above observation of this Court that right of representation and hearing contemplated under Section 5-A of the Act is a very valuable right of a person whose property is sought to be acquired and he should have appropriate and reasonable opportunity of persuading the authorities concerned that the acquisition of the property belonging to that person should not be made.

> Therefore, in our opinion, if the appropriate Government decides to take away this minimal right then its decision to do so must be based on materials on record to support the same and bearing in mind the object of Section 5-A."

25. In *Union of India and Ors. v. Krishan Lal Arneja and Ors.*[23], the issue under consideration before this Court related to the validity of notification for the acquisition of the land for a public purpose, inter alia, `housing of the government offices' and `residential use of government servants' invoking Section 17(1) and (4). This Court emphasized that failure to take timely action for acquisition by the authorities cannot be a ground to invoke the urgency clause to the serious detriment to the right of the land owner to raise objections to the acquisition under Section 5A. It was observed that Gurdial Singh4 is not an authority for the proposition that in the absence of material to justify urgency clause, long delay in issuing the notification could be ignored or condoned to uphold the validity of such notification.

26. In *Hindustan Petroleum Corporation Ltd. v. Darius Shapur Chenai and Ors.*[24], this Court observed that Section 5A of the Act confers a valuable right in favour of a person whose lands are sought to be acquired. It was further observed that the Act is an expropriatory legislation and, therefore, its provisions should be strictly construed as it deprives a person of his land without consent.

27. This Court in the case of *Mahadevappa Lachappa Kinagi and Ors. v. State of Karnataka and Ors.*[25] posited that Section 17 of the Act confers extraordinary powers on the authorities under which it can dispense with the normal procedure laid down under Section 5A of the Act in cases of exceptional urgency and that such powers cannot be lightly resorted to except in case of real urgency enabling the government to take immediate possession of the land proposed to be acquired for public purpose. That case related to the acquisition of land for the rehabilitation of 145 families uprooted because of commissioning of barrage of Bhima River. It was held that the case indicated an exceptional case where exceptional power under Section 17 could be invoked.

28. Now, two recent decisions of this Court need to be noticed. In *Babu Ram and Anr. v. State of Haryana and Anr.*[26], this Court was concerned with the legality of the notification for acquisition of land for construction of sewage treatment plant.

> "The appropriate government invoked its power under Section 17(2)(c) and by invoking its power under Section 17(4) excluded the application of Section 5A of the Act. After referring to few decisions of this Court, particularly, Gurdial Singh4 and Om Prakash10, it was observed that these decisions assign a great deal of importance to the right of a citizen to file objections under Section 5A of the Act and the fact that such right was elevated to the status of a fundamental right is in itself sufficient to indicate that great care had to be taken by the authorities before resorting to Section 17(4) of the Act and they have to satisfy themselves that there was an urgency of such nature which could brook no delay whatsoever. In another case, viz.; *Tika Ram and Ors. v. State of Uttar Pradesh and Ors.*[27], constitutional validity of the provisions of

Sections 17(1), 17(1A), 17(3A), 17(4) and the proviso to Section 17(4) as amended by U.P. Act 5 of 1991 was under challenge besides the various other provisions of the Act. This Court overruled the challenge to the constitutionality of the aforenoticed provisions. As regards invocation of power under Section 17 of the Act and doing away with Section 5A enquiry, it was held :

"115. While considering as to whether the Government was justified in doing away with the inquiry under Section 5-A, it must be noted that there are no allegations of mala fides against the authority.

No evidence has been brought before the judgment and the High Court has also commented on this. The housing development and the planned developments have been held to be the matters of great urgency by the Court in Pista Devi case. In the present case we have seen the judgment of the High Court which has gone into the records and has recorded categorical finding that there was sufficient material before the State Government and the State Government has objectively considered the issue of urgency. Even before this Court, there were no allegations of mala fides. A notice can be taken of the fact that all the lands which were acquired ultimately came to be utilised for the Scheme. We, therefore, reject the argument that there was no urgency to justify dispensation of Section 5-A inquiry by applying the urgency clause."

29. `Eminent domain' is right or power of a sovereign State to appropriate the private property within the territorial sovereignty to public uses or purposes. It is exercise of strong arm of government to take property for public uses without owner's consent. It requires no constitutional recognition; it is an attribute of sovereignty and essential to the sovereign government. (Words and Phrases, Permanent Edition, Volume 14, 1952 (West Publishing Co.,).

30. The power of eminent domain, being inherent in the government, is exercisable in the public interest, general welfare and for public purpose. Acquisition of private property by the State in the public interest or for public purpose is nothing but an enforcement of the right of eminent domain. In India, the Act provides directly for acquisition of particular property for public purpose. Though right to property is no longer fundamental right but Article 300A of the Constitution mandates that no person shall be deprived of his property save by authority of law. That Section 5A of the Act confers a valuable right to an individual is beyond any doubt. As a matter of fact, this Court has time and again reiterated that Section 5A confers an important right in favour of a person whose land is sought to be acquired. When the government proceeds for compulsory acquisition of particular property for public purpose, the only right that the owner or the person interested in the property has, is to submit his objections within the prescribed time under Section 5A of the Act and persuade the State authorities to drop the acquisition of that particular land by setting forth the reasons such as the unsuitability of the land for the stated public purpose; the grave hardship that may be caused to him by such expropriation, availability of alternative land for achieving public purpose etc. Moreover, right conferred on the owner or person interested to file objections to

the proposed acquisition is not only an important and valuable right but also makes the provision for compulsory acquisition just and in conformity with the fundamental principles of natural justice. The exceptional and extraordinary power of doing away with an enquiry under Section 5A in a case where possession of the land is required urgently or in unforeseen emergency is provided in Section 17 of the Act. Such power is not a routine power and save circumstances warranting immediate possession it should not be lightly invoked. The guideline is inbuilt in Section 17 itself for exercise of the exceptional power in dispensing with enquiry under Section 5A. Exceptional the power, the more circumspect the government must be in its exercise. The government obviously, therefore, has to apply its mind before it dispenses with enquiry under Section 5A on the aspect whether the urgency is of such a nature that justifies elimination of summary enquiry under Section 5A. A repetition of statutory phrase in the notification that the state government is satisfied that the land specified in the notification is urgently needed and provision contained in Section 5A shall not apply, though may initially raise a presumption in favour of the government that pre-requisite conditions for exercise of such power have been satisfied, but such presumption may be displaced by the circumstances themselves having no reasonable nexus with the purpose for which power has been exercised. Upon challenge being made to the use of power under Section 17, the government must produce appropriate material before the court that the opinion for dispensing with the enquiry under Section 5A has been formed by the government after due application of mind on the material placed before it. It is true that power conferred upon the government under Section 17 is administrative and its opinion is entitled to due weight, but in a case where the opinion is formed regarding the urgency based on considerations not germane to the purpose, the judicial review of such administrative decision may become necessary. As to in what circumstances the power of emergency can be invoked are specified in Section 17(2) but circumstances necessitating invocation of urgency under Section 17(1) are not stated in the provision itself. Generally speaking, the development of an area (for residential purposes) or a planned development of city, takes many years if not decades and, therefore, there is no reason why summary enquiry as contemplated under Section 5A may not be held and objections of land owners/persons interested may not be considered. In many cases on general assumption, likely delay in completion of enquiry under Section 5A is set up as a reason for invocation of extraordinary power in dispensing with the enquiry little realizing that an important and valuable right of the person interested in the land is being taken away and with some effort enquiry could always be completed expeditiously.

> "The special provision has been made in Section 17 to eliminate enquiry under Section 5A in deserving and cases of real urgency. The government has to apply its mind on the aspect that urgency is of such nature that necessitates dispensation of enquiry under Section 5A. We have already noticed few decisions of this Court. There is conflict of view in the two decisions of this Court viz.; Narayan Govind Gavate3 and Pista Devi6. In Om Prakash10 this Court held that decision in Pista Devi6 must be confined to the fact situation in those days when it was rendered and the two-Judge Bench could not have laid down a proposition contrary to the decision in Narayan Govind Gavate3. We agree. As regards the issue whether pre- notification

and post-notification delay would render the invocation of urgency power void, again the case law is not consistent. The view of this Court has differed on this aspect due to different fact-situation prevailing in those cases. In our opinion such delay will have material bearing on the question of invocation of urgency power, particularly in a situation where no material has been placed by the appropriate government before the court justifying that urgency was of such nature that necessitated elimination of enquiry under Section 5A."

31. In a country as big as ours, the roof over head is a distant dream for large number of people. The urban development continues to be haphazard. There is no doubt that planned development and housing are matters of priority in developing nation. The question is as to whether in all cases of `planned development of the city' or `for the development of residential area', the power of urgency may be invoked by the government and even where such power is invoked, should the enquiry contemplated under Section 5A be dispensed with invariably. We do not think so. Whether `planned development of city' or `development of residential area' cannot brook delay of few months to complete the enquiry under Section 5A? In our opinion, ordinarily it can. The government must, therefore, do a balancing act and resort to the special power of urgency under Section 17 in the matters of acquisition of land for the public purpose viz.; `planned development of city' or `for development of residential area' in exceptional situation. Use of the power by the government under Section 17 for `planned development of the city' or `the development of residential area' or for `housing' must not be as a rule but by way of an exception. Such exceptional situation may be for the public purpose viz., rehabilitation of natural calamity affected persons; rehabilitation of persons uprooted due to commissioning of dam or housing for lower strata of the society urgently; rehabilitation of persons affected by time bound projects, etc. The list is only illustrative and not exhaustive. In any case, sans real urgency and need for immediate possession of the land for carrying out the stated purpose, heavy onus lies on the government to justify exercise of such power. It must, therefore, be held that the use of the power of urgency and dispensation of enquiry under Section 5A by the government in a routine manner for the `planned development of city' or `development of residential area' and thereby depriving the owner or person interested a very valuable right under Section 5A may not meet the statutory test nor could be readily sustained.

32. Adverting now to the facts of the present case, it would be seen that somewhere in February, 2000, a Land Selection Committee was constituted to identify the availability of land for a housing colony by the GDA. In April, 2001, the Committee so constituted inspected the site and proposed acquisition of land in Village Manbela and few other villages but nothing further was done as the tenure holders opposed the acquisition of their land and the Commissioner, Gorakhpur in public interest stayed proposal for acquisition. Abruptly the notifications for the proposed acquisition were issued on November 22, 2003/February 20, 2004 under Section 4 of the Act. In these notifications urgency clause was invoked and the enquiry under Section 5A was dispensed with. Then, for more than one year nothing was done. It was only on December 28, 2004 that a declaration under Section 6 was made. If the matter could hang on from April, 2001 to November 22, 2003/February 20, 2004 before the

notifications under Section 4 were issued and for about a year thereafter in issuance of declaration under Section 6, acquisition proceedings could have been arranged in a manner so as to enable the land owners and/or the interested persons to file their objections under Section 5A within the prescribed time and complete the enquiry expeditiously. It is true that insofar as Uttar Pradesh is concerned, there is amendment in Section 17. Sub-section (1A) enables the Government to take possession under sub- section (1) of Section 17 if the land is required for public purpose viz.; `planned development'. Yet for forming an opinion that provisions of Section 5A shall not apply, the state government must apply its mind that urgency is of such nature warranting elimination of enquiry under Section 5A. Although some correspondence between the authorities and the government was placed before the High Court by the GDA, but no material has been placed on record by the State Government either before the High Court or before this Court indicating the application of mind that the urgency was of such nature which warranted elimination of the enquiry under Section 5A of the Act. It is interesting to note that GDA wanted the subject land to be acquired because their land bank had no land and they wanted land to keep the Authority running. If profit-making and the sustenance of the Development Authority was the motive, surely urgency was not of such nature that it could brook no delay whatsoever. In the facts and circumstances of the present case, therefore, the Government has completely failed to justify the dispensation of an enquiry under Section 5A by invoking Section 17(4). For this reason, the impugned notifications to the extent they state that Section 5A shall not apply suffer from legal infirmity. The question, then, arises whether at this distance of time, the acquisition proceedings must be declared invalid and illegal. In the written submissions of the GDA, it is stated that subsequent to the declaration made under Section 6 of the Act in the month of December, 2004, award has been made and out of the 400 land owners more than 370 have already received compensation. It is also stated that out of the total cost of Rs. 8,85,14,000/- for development of the acquired land, an amount of Rs. 5,28,00,000/- has already been spent by the GDA and more than 60% of work has been completed. It, thus, seems that barring the appellants and few others all other tenure holders/land owners have accepted the `takings' of their land.

> "It is too late in the day to undo what has already been done.
>
> We are of the opinion, therefore, that in the peculiar facts and circumstances of the case, the appellants are not entitled to any relief although dispensation of enquiry under Section 5A was not justified."

33. On behalf of the appellants, it was vehemently argued that the government may be directed to release their land from proposed acquisition. It was submitted by the appellants that houses/structures and buildings (including educational building) are existing on the subject land and as per the policy framed by the State Government, the land deserves to be exempted from acquisition. The submission of the appellants has been countered by the respondents and in the written submissions filed by the GDA, it is stated that the houses/structures and buildings which are claimed to exist, have been raised by the appellants subsequent to the notification under Section 4(1) of the Act and, therefore, they

are not entitled to release of their land from acquisition. In our view, since the existence of houses/structures and buildings as on November 22, 2003/February 20, 2004 over the appellants' land has been seriously disputed, it may not be appropriate to issue any direction to the State Government, as prayed for by the appellants, for release of their land from acquisition.

> "However, as the possession has not been taken, the interest of justice would be subserved if the appellants are given liberty to make representation to the State authorities under Section 48(1) of the Act for release of their land. We, accordingly, grant liberty to the appellants to make appropriate representation to the State Government and observe that if such representation is made by the appellants within two months from today, the State Government shall consider such representation in accordance with law and in conformity with the State policy for release of land under Section 48(1) without any discrimination within three months from receipt of such representation."

34. In the result, these appeals fail and are dismissed, subject to the liberty reserved to the appellants for making representations under Section 48 (1) of the Act.

35. I.A. for impleadment is rejected and I.A. for discharge of Advocate - Mr. S.C. Birla is allowed.

36. No order as to costs.

[1]*(1967) 1 SCR 373*
[2]*(1971) 1 SCC 671*
[3]*(1977) 1 SCC 133*
[4]*(1980) 2 SCC 471*
[5]*(1984) 4 SCC 308*
[6]*(1986) 4 SCC 251*
[7]*(1984) 4 SCC 308*
[8]*(1993) 2 SCC 84*
[9]*(1996) 2 SCC 549*
[10]*(1986) 4 SCC 251*
[11] *AIR 1975 AP 269*
[12]*(1984) 4 SCC 308*
[13]*(1975) 4 SCC 285*
[14]*(1971) 1 SCC 671*
[15]*(1993) 2 SCC 84*
[16]*(1995) 5 SCC 587*
[17]*(1996) 11 SCC 462*
[18]*(1998) 6 SCC 1*
[19]*(1986) 4 SCC 251*
[20]*(2004) 8 SCC 14*
[21]*(1964) 3 SCR 42*
[22]*(1973) 2 SCC 337*
[23]*(2004) 8 SCC 453*

[24]*(2005) 7 SCC 627*
[25]*(2008) 12 SCC 418*
[26]*(2009) 10 SCC 115*
[27]*(2009) 10 SCC 689*