

SUPREME COURT OF INDIA

Harbhajan Singh

Vs.

State of Himachal Pradesh

C.A.No.5767 of 2002

(R.V.Raveendran and A.K.Patnaik JJ.)

23.11.2010

JUDGMENT

A.K.Patnaik, J.

1. This is an appeal against the judgment and order dated 21.09.2001 of the Division Bench of the Himachal Pradesh High Court in Civil Writ Petition No.438 of 1999 filed by the appellant (Harbhajan Singh).

2. The relevant facts very briefly are that on 03.10.1986, the Director of Land Consolidation Department, Government of Himachal Pradesh, issued a notice under Section 14 of the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 (for short 'the Act') declaring that in the interest of general public and better cultivation of agricultural land, the Government has made a plan for land consolidation of 14 villages including Revenue Estate Damtal Khas. In Revenue Estate Damtal Khas, the appellant (Harbhajan Singh) and the respondent No.2 (Mandir Damtal) owned land. The land of the appellant was valued at 1 anna. The Appellant filed objections saying that his land was located on the road side and was of much higher value considering its commercial importance. The Consolidation Officer in his order dated 15.12.1986 held the objection of the appellant to be correct and ordered the value of the land to be 16 annas. There was a proposal during the consolidation proceedings for exchanging the land of the appellant in khasra No.171/1 with the land of respondent No.2 in khasra No.171. The value of the land of respondent No.2 in khasra No.171 was proposed as 16 annas and the appellant objected to this valuation saying that the value of the land of respondent No.2 in khasra No.171 should be 1 anna only. By order dated 01.04.1988, the Land Acquisition Officer held that the correction of valuation of the land of respondent No.2 in khasra No.171 was beyond his jurisdiction. The appellant filed an appeal before the Settlement Officer who by order dated 19.05.1989 gave some additional land to the appellant but did not change the valuation of the land of respondent No.2 in khasra No.171 to 1 anna as claimed by the appellant. The appellant then filed a revision before the Director of Consolidation under Section 54 of the Act and the Additional Director (Consolidation) by his order dated 15.07.1996 set aside the

order dated 19.05.1989 of the Settlement Officer and held that it was not justified to give the same value to khasra No.171 and khasra No.171/1. The Additional Director further held that as a result of correction of the valuation of the land, the net deficiency in allotment of area to the appellant comes to 3-87-47 hectares standard area and the excess of area of respondent No.2 comes to 3-51-81 hectares standard area and, therefore, the excess area allotted to respondent No.2 is to be excluded from the area of respondent No.2 and is to be included in the holding of the appellant to make his deficiency in the allotted area. This order of Additional Director (Consolidation) was given effect to by the Consolidation Officer in his order dated 28.12.1996.

“2. The order dated 15.07.1996 passed by the Additional Director was challenged by the lessees of land of respondent No.2 (for short `the lessees') in a Writ Petition C.W.P. No.33 of 1997. The lessees withdrew C.W.P. No.33 of 1997 and filed a fresh writ petition C.W.P. No.185 of 1997 challenging the order dated 15.07.1996 of Additional Director. By order dated 26.05.1997, the Division Bench of the High Court dismissed C.W.P. No.185 of 1997. The lessees filed Review Petition No.26 of 1997 which was dismissed by the Division Bench of the High Court on 23.06.1997. The lessees filed Special Leave Petitions (C) No.17105 and 17106 of 1997 before this Court and by order dated 22.09.1997 this Court dismissed the special leave petitions. On 27.09.1999, however, the State Government of Himachal Pradesh issued a notification under sub-section (1) of Section 16 of the Act cancelling the declaration dated 03.10.1986 of the Director, Land Consolidation Department, Government of Himachal Pradesh, under Section 14 of the Act to the extent the declaration related to Revenue Estate Damtal Khas. As a consequence, Revenue Estate Damtal Khas ceased to be under consolidation operation with effect from 27.09.1999. Aggrieved, the appellant filed Civil Writ Petition No.438 of 1999 challenging the notification dated 27.09.1999 in the High Court of Himachal Pradesh and by the impugned judgment and order, the Division Bench of the High Court dismissed the writ petition.”

3. The contention of the appellant before the High Court was that the notification dated 27.09.1999 issued under Section 16(1) of the Act by the State Government cancelling the declaration under Section 14 of the Act was arbitrary, unreasonable and vitiated by mala fide inasmuch as it was issued after 13 years from the declaration under Section 14 of the Act in 1986 and after the consolidation proceedings were finalized, completed and even implemented and the real object of the notification was to set at naught the orders passed by the Consolidation Authorities and the Court. The further contention of the appellant before the High Court was that before issuing the notification under Section 16(1) of the Act no opportunity whatsoever was given to the appellant to press his case before the State Government and, therefore, the notification was issued in violation of the principles of natural justice. On behalf of the State Government, it was contented that no notification under sub-section (1) of Section 15 of the Act closing the consolidation operation in the Revenue Estate Damtal had been issued by the State Government and, therefore, it was open to the State Government to cancel the declaration under Section 16(1) of the Act and that the notification was issued in the larger public interest and that principles of natural justice were

not required to be followed by the State Government before issuing the notification. The contention of respondent No.2 before the High Court was that the valuation of khasra Nos.171 and 171/1 fixed by the Additional Director (Consolidation) had caused serious prejudice to Mandir Damtal and had given undue benefits to the appellant inasmuch as valuation of the property of Mandir Damtal was reduced from 16 annas to 1 anna, whereas the valuation of the property belonging to the appellant was increased from 1 anna to 16 annas and all this was done in connivance and collusion with the State Government Officers. The High Court found that the Deputy Commissioner, Kangra, had submitted a report dated 04.01.1999 to the Finance Commissioner-cum-Secretary (Revenue), Government of Himachal Pradesh, in which the extent of cultivable land of private land-owners in Revenue Estate Damtal was stated to be negligible and it was also stated that the holdings of almost all the land- owners in the Revenue Estate except that of Damtal Temple (respondent No.2) and Harbhajan Singh (appellant) remained unaffected by the consolidation operation inasmuch as the land which the other land- owners held before the consolidation operation was allotted to them in the consolidation operation also and it was only the land belonging to Damtal Temple and the land belonging to Harbhajan Singh, which were sought to be exchanged. In the report, the Deputy Commissioner therefore observed that no useful purpose has been served by taking up the consolidation operation in the Revenue Estate Damtal and recommended that the declaration made under Section 14 of the Act for taking up consolidation operation in the Revenue Estate be cancelled under Section 16 of the Act with a view to restore normalcy in the area. The High Court held that the notification under Section 16(1) of the Act cancelling the declaration under Section 14 of the Act was issued by the State Government in larger public interest and was also issued before the closure of the consolidation operation under Section 15(1) of the Act and was not arbitrary and unreasonable. The High Court further held that non-issuance of the notification would have resulted in public mischief and extension of undue benefits to the appellant causing loss and injury to the respondent No.2 which was public trust. Thus, the High Court held that the notification dated 27.09.1999 issued under Section 16(1) of the Act was legal, valid and in accordance with law.

4. Mr. P.S. Narasimha, learned Senior Counsel appearing for the appellant, submitted that the High Court was not right in coming to the conclusion that the power under Section 16(1) of the Act could be invoked by the State Government to cancel the declaration under Section 14(1) of the Act in respect of the Revenue Estate Damtal. He argued that though Section 16(1) of the Act empowers the State Government to cancel the declaration made under Section 14 of the Act in respect of any area "at any time", the State Government cannot exercise powers under Section 16(1) of the Act after the consolidation authorities had finalized the consolidation proceedings. He cited the decision of the Full Bench of the Punjab High Court in Chahat Khan Bahadur Khan and others v. The State of Punjab and others [AIR 1966 Punjab 111], in which the expression "at any time" in Section 36 of East Punjab (Consolidation and Prevention of Fragmentation) Act, 1948 arose for interpretation before the High Court and the High Court held that this expression though wide has limitations as spelled out from the context in which it is used and would mean the time and duration of the jurisdiction of the Settlement Officer (Consolidation). He submitted that in the present case

after the order dated 15.07.1996 was passed by the Additional Director (Consolidation) making final allotment of the area to the appellant and after the Consolidation Officer by his order dated 28.12.1996 gave effect to the order dated 15.07.1996 of the Additional Director (Consolidation), the jurisdiction of the consolidation authorities came to an end and therefore no notification could be issued under Section 16(1) of the Act by the State Government cancelling the declaration under Section 14(1) of the Act.

5. Mr. Narasimha next submitted that the notification dated 27.09.1999 issued by the State Government under Section 16(1) of the Act is arbitrary and vitiated by legal mala fides inasmuch as it was issued by the State Government with an object to set at naught the orders passed by the consolidation authorities in favour of the appellant, which have been upheld by the High Court and the Supreme Court in the writ petition and the special leave petition. He submitted that the State Government could have, in exercise of its revisional powers under Section 54 of the Act, examined the legality and propriety of the order dated 15.07.1996 passed by the Additional Director (Consolidation), but instead the State Government exercised its powers under Section 16(1) of the Act and cancelled the declaration under Section 14(1) of the Act in relation to Revenue Estate Damtal Khas for extraneous considerations. He cited the decision of this Court in *S. Pratap Singh v. The State of Punjab*¹, for the proposition that when the dominant purpose of exercise of a power is unlawful then the act itself is unlawful and it is not cured by saying that there was some other purpose for exercise of the power, which was lawful. He argued that in the present case, the dominant purpose of issuing the notification under Section 16(1) of the Act was to frustrate the order dated 15.07.1996 passed by the Additional Director (Consolidation) in favour of the appellant as confirmed by the orders passed by the High Court and the Supreme Court in writ petition and special leave petition and therefore the notification issued under Section 16(1) of the Act is bad in law even if some other lawful purposes may be the object of the notification.

6. Mr. Narasimha finally submitted that the notification dated 27.09.1999 of the State Government under Section 16(1) of the Act was also violative of principles of natural justice as a copy of the report of the Deputy Commissioner on the basis of which the notification was issued was not supplied to the appellant and no opportunity whatsoever was given to the appellant before the notification was issued by the State Government. According to Mr. Narasimha, the High Court should have quashed the notification dated 27.09.1999 issued under Section 16(1) of the Act and allowed the writ petition of the appellant.

7. Mr. Naresh K. Sharma, learned Counsel appearing for the State of Himachal Pradesh, respondent no.1, submitted that Sections 2(7), 4, 14 and 32 of the Act would show that the Act applies to agricultural or cultivable land. He argued that the report of the Deputy Commissioner, Kangra which was submitted to the Finance Commissioner-cum-Secretary (Revenue), Government of Himachal Pradesh clearly indicated that the extent of cultivable land of the private land-owners in Revenue Estate Damtal was negligible and that the holdings of almost all the land-owners of the cultivable land in the Revenue Estate except that of Damtal Temple and the appellant remained unaffected by the consolidation operation

and that the consolidation operation only was confined to exchange of land of Damtal Temple with the land of the appellant, which had stone quarries and which was not cultivable. On these facts, the State Government issued the notification dated 27.09.1999 under Section 16(1) of the Act cancelling the declaration under Section 14(1) of the Act in the larger public interest because the object of the Act was not being achieved by the consolidation operations. Mr. Sharma submitted that this is not a case where the State Government has exercised its power under Section 16(1) of the Act for purposes extraneous to the object of the Act.

8. Mr. Sharma next submitted that the expression "at any time" in Section 16(1) of the Act is very wide and the State Government can issue a notification under Section 16(1) of the Act at any time before the closure of the consolidation operations under Section 15(1) of the Act. He further submitted that there is nothing in Section 16 of the Act to indicate that the State Government has to comply with the principles of natural justice before issuing the notification under Section 16(1) of the Act.

9. Mr. Neeraj Malhotra, learned counsel appearing for respondent no.2, adopted the contentions of the learned counsel appearing for respondent no.1. He also submitted that until the year 1996, Damtal Temple was being managed by the Mahanto and because of collusion between the Mahanto of the Temple and the appellant, the interest of the Temple was in jeopardy during the consolidation proceedings. He further submitted that in fact in the proceedings before the Additional Director (Consolidation) relating to valuation and allotment of the land to the different parties, Damtal Temple was not a party and the order of the Additional Director (Consolidation) was obtained by the appellant behind the back of the Damtal Temple causing grave loss and injury to the Temple.

10. Mr. S. Balakrishnan, learned senior counsel for respondent no.4, submitted that although the mutation entry was made in favour of the appellant on 19.01.1997 in respect of the land of the Damtal Temple in khasra No. 171, possession in respect of the land was not delivered to the appellant. He referred to the provisions of Section 32 of the Act and Rule 18 of the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Rules, 1973 (for short 'the Rules') to show the manner in which possession of a holding has to be given to a person after allotment to him in the consolidation proceedings. He submitted that Section 35 of the Act is very clear that only after a person entitled to possession of the plot allotted to him is given possession in pursuance of the provisions of Section 32 that he acquires his rights, title and interest in the plot allotted to him. He argued that in the present case since the appellant has not been given possession of the land in khasra No. 171 in accordance with Section 32 of the Act and Rule 18 of the Rules, he had not acquired any right, interest or title in the land in khasra No. 171, which remained with the Damtal Temple.

11. Sections 14, 15, 16, 32, 34 and 35 of the Act and Rule 18 of the Rules, which are relevant for deciding this case, are extracted hereunder:

“Section 14. Declaration regarding consolidation - (1) The State Government may declare that in the interests of the general public and for the purposes of better cultivation of land it has decided to make a scheme of consolidation for any estate or a group of estates or a sub-division of an estate.

(2) Every such declaration shall be published in the Official Gazette and in the estate or estates concerned in the prescribed manner.

Section 15. Effect of declaration - (1) On the publication of the declaration under section 14, an estate, group of estates or a sub-division of an estate, as the case may be, shall be deemed to be under consolidation operations from the date of such publication until the publication of the notification that the consolidation operations have been closed. (2) Where an estate, group of estates or a sub-section of an estate is under consolidation operations, the duty of maintaining the maps, field book and preparing an annual record under the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), as applicable to the areas which formed part of the Himachal Pradesh immediately before the 1st day of November, 1966, and the Punjab Land Revenue Act, 1887 (17 of 1887) as applicable in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966) and the rules framed thereunder, shall stand transferred to the Settlement Officer (Consolidation), and thereupon all the powers conferred on the Collector and Assistant Collector, under the said Acts and rules, shall, so long as an estate, group of estates or a sub-division of an estate remains under consolidation operations, be exercised by the following officers:-

1. The Director of Consolidation of Holdings.
2. Settlement Officer (Consolidation).
3. Consolidation Officer.
4. Assistant Consolidation Officer.

(3) The State Government may by notification confer on any officer mentioned in sub-section (2) the powers of Collector, all or any of the powers with which an Assistant Collector, may be invested under the *Himachal Pradesh Land Revenue Act, 1954 (6 of 1954)* or the *Punjab Land Revenue Act, 1887 (17 of 1887)* as the case may be.

Section 16. Cancellation of declaration under section 14 - (1) The State Government may at any time cancel the declaration made under section 14 in respect of the whole or any part of the area specified therein.

(2) Where a declaration has been cancelled in respect of any area under sub-section (1), such area shall, with effect from the date of cancellation cease to be under consolidation operations.

Section 32. Right to possession of new holdings .- (1) If all the owners and tenants affected by the scheme of consolidation or, as the case may be, repartition, as finally confirmed agree to enter into possession of the holdings allotted to them thereunder, the Consolidation Officer may allow them to enter into such possession forthwith or from such date as may be specified by him.

(2) If all the owners and tenants as aforesaid do not agree to enter into possession under sub-section (1), they shall be entitled to possession of the holdings and tenancies allotted to them from the commencement of the agricultural year next following the date of the publication of the scheme under sub-section (3) of section 29, or as the case may be, of the preparation of the new record-of-rights under sub-section (1) of section 31 and the Consolidation Officer shall, if necessary, put them in physical possession of the holding to which they are so entitled, and in doing so, may exercise the powers of a Revenue Officer under the *Himachal Pradesh Land Revenue Act, 1954 (6 of 1954)*, or the *Punjab Land Revenue Act, 1887 (17 of 1887)*, as the case may be: Provided that if there are standing crops on the holdings, physical possession of the holdings shall be delivered after the aforesaid standing crops have been harvested.

(3) If any person from whom compensation is recoverable under the scheme fails within 15 days of the commencement of the agricultural year referred to in sub-section (2) to deposit such compensation in the prescribed manner, it shall be recoverable from him as an arrear of land revenue, and in such case the amount realised after deducting the expenses shall be paid to any person having interest in the holding.

Section 34. Coming into force of such scheme - As soon as the persons entitled to possession of holdings under this Act have entered into possession of holdings respectively allotted to them, the scheme shall be deemed to have come into force.

Section 35. Rights after consolidation - Subject to the provisions of section 24 and 25, and with effect from the date on which a tenure holder, in pursuance of the provisions of section 32 enters into possession of the plots allotted to him, his rights, title and interest in his original holdings shall be extinguished and he shall have the same rights, title and interest subject to modification, if any, specified in the final consolidation scheme in the plots allotted to him there under.

Rule 18. Procedure for eviction and catering into possession - The Consolidation Officer shall serve a notice on that person or persons liable to eviction under sub-section (2) of section 32 requiring him within 15 days of the receipt of the notice to

vacate the land. If such notice is not complied with within the time specified therein, the Consolidation Officer may exercise the powers of a Revenue Officer under the Himachal Pradesh Land Revenue Act, 1954 or the Punjab Land Revenue Act, 1887, as the case may be, for the purpose of putting in physical possession of the holdings the person entitled thereto."

A reading of Section 14 of the Act extracted above would show that under the Section the State Government or its delegate may make a declaration that in the interests of the general public and for the purposes of better cultivation of land, it has been decided to make a consolidation scheme. Section 15 states that on publication of such declaration under Section 14, the concerned area shall be deemed to be under consolidation operations until the publication of a notification that the consolidation operations have been closed."

12. The first question which we are called upon to decide in this case is whether for any area where the consolidation operation has not been closed by publication of a notification under Section 15 of the Act, the State Government has the power under Section 16(1) of the Act to cancel the declaration made under Section 14 in respect of that area. The bare language of Section 16(1) of the Act is clear that the State Government has the power to cancel the declaration made under Section 14 in respect of any area "at any time". The expression "at any time" in Section 16(1) of the Act though wide is controlled by other provisions of the Act. As observed by *Lord Watson in Administrator-General of Bengal v. Premal Mullick*² "... it is conceivable that the Legislature whilst enacting one clause in plain terms, might introduce into the same statute other enactments which to some extent qualify or neutralise its effect." (See Principles of Statutory Interpretation by Justice G.P. Singh, 12th Edition Pages 36, 37). The other provisions of the Act which we have to read to find the meaning of the expression "at any time" in Section 16(1) are Sections 32, 33, 34 and 35 of the Act. Section 32(1) of the Act quoted above provides that if all the owners and tenants affected by the scheme of consolidation or, as the case may be, repartition, as finally confirmed agree to enter into possession of the holdings allotted to them thereunder, the Consolidation Officer may allow them to enter into such possession forthwith or from such date as may be specified by him. Section 32 further provides that if all the owners and tenants as aforesaid do not agree to enter into possession under Section 32(1), they shall be entitled to possession of the holdings and tenancies allotted to them from the commencement of the agricultural year next following the date of the publication of the scheme under sub-section (3) of section 29, or as the case may be, of the preparation of the new record-of-rights under sub-section (1) of section 31 and the Consolidation Officer shall, if necessary, put them in physical possession of the holding to which they are so entitled, and in doing so, may exercise the powers of a Revenue Officer under the Himachal Pradesh Land Revenue Act, 1954 or the Punjab Land Revenue Act, 1887, as the case may be. Section 35 states that with effect from the date on which a tenure holder, in pursuance of the provisions of Section 32, enters into possession of the plots allotted to him, his rights, title and interest in his original holdings shall be extinguished and he shall have the same rights, title and interest subject to modification, if any, specified in the final consolidation scheme in the plots allotted to him

thereunder. Section 34 of the Act quoted above states that as soon as the persons entitled to possession of holdings under the Act have entered into possession of holdings respectively allotted to them, the scheme shall be deemed to have come into force. It is, thus, clear that it is only when the persons entitled to possession of holdings under the Act have been delivered possession of the holdings that they acquire rights, title and interest in the new holding allotted to them and the consolidation scheme in the area is deemed to have come into force. Till such possession of the allotted land under the consolidation scheme is delivered to the allottees and the consolidation scheme is deemed to come into force, the State Government has the power under Section 16(1) of the Act to cancel the declaration under Section 14(1) of the Act.

13. For this conclusion, we are supported by the decision of the Full Bench of the Punjab High Court in *Chahat Khan Bahadur Khan and others v. The State of Punjab and others* (supra) cited by Mr. Narasimha. Section 36 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 provided that a scheme for the consolidation of holdings confirmed under the Act may, "at any time", be varied or revoked by the authority which confirms it subject to any order of the State Government that may be made in relation thereto and a subsequent scheme may be prepared, published and confirmed in accordance with the provisions of the Act. The Full Bench of the High Court held that though Section 36 says that the power and jurisdiction conferred by it on the Settlement Officer (Consolidation) may be used and exercised "at any time", the expression "at any time" will have limitations as spelled out from the context in which it is used. The Full Bench after referring to the various provisions of the 1948 Act held that the Settlement Officer (Consolidation) had no jurisdiction to make the order varying or modifying the scheme of consolidation in the village after the consolidation proceedings were completed and came to an end on the coming into force of the scheme of consolidation of holdings and the taking of possessions of the lands allotted to the land-holders on or about February 16, 1959. (See³ at Page 125 Para 17).

14. In the instant case, the Additional Director (Consolidation) by his order dated 15.07.1996 appears to have decided on the valuation of the land of the parties and the areas of land to be allotted to the appellant and to Damtal Mandir and the Consolidation Officer has also implemented the order of the Additional Director by his order dated 28.12.1996 and made mutation entries relating to the land, but no material has been produced before the Court by the appellant to show that the possession of the land allotted to the appellant was given to the appellant in accordance with the statutory provisions in Section 32 of the Act and Rule 18 of the Rules.

15. Since the appellant had not entered into possession of the holdings allotted to the appellant and Damtal Mandir has also not entered into possession of the holdings allotted to the Mandir pursuant to the orders passed by the Additional Director (Consolidation) and the Consolidation Officer and since the consolidation scheme had not come into force in the Revenue Estate Damtal, the State Government had the power under Section 16(1) of the Act to cancel the declaration under Section 14(1) of the Act.

16. The next question which we have to decide in this case is whether the State Government was bound to follow the principles of natural justice before issuing the notification dated 27.09.1999 under Section 16(1) of the Act cancelling the declaration under Section 14(1) of the Act in respect of the Revenue Estate Damtal. Section 16(1) of the Act does not state that a show cause notice is to be issued to any party or that any party has to be heard before a notification is issued thereunder. Hence, the question which we have to consider is whether principles of natural justice should be read into Section 16(1) of the Act. We have already held that the State Government can issue a notification under Section 16(1) of the Act cancelling the declaration under Section 14(1) of the Act in respect of any area at any time before the persons entitled to possession of holdings under the Act have entered into possession of the holdings allotted to them. Since before the persons enter into possession of the holdings allotted to them, they do not acquire any right, title and interest in the holdings allotted to them and they do not lose in any manner their rights, title and interest in their original holdings, their rights are not affected by the issuance of a notification under Section 16(1) of the Act. In other words, a notification under Section 16(1) of the Act issued by the State Government before delivery of possession of the allotted holdings to persons has no civil consequences and therefore the State Government is not required to follow the principles of natural justice before issuing such a notification.

17. The last question which we have to consider is whether the State Government has acted arbitrarily, unreasonably and in a malafide manner in cancelling the declaration under Section 14 of the Act in respect of Revenue Estate Damtal by the notification dated 27.09.1999. In the notification dated 27.09.1999 itself, it is stated that the Governor of Himachal Pradesh after taking into consideration various representations from public was of the opinion that it is not in the larger public interest to continue with the consolidation operation in the Revenue Estate Damtal Khas.

18. Before the High Court, a report of the Deputy Commissioner, Kangra, with regard to the consolidation operation in the Revenue Estate Damtal was produced. In this report, the Deputy Commissioner has narrated various orders passed by the consolidation authorities in the Revenue Estate Damtal after the consolidation operations started in the village pursuant to the notification dated 19.11.1979. Paras 15 and 16 of report in which the Deputy Commissioner has described how the consolidation operation in the Revenue Estate Damtal has not been done in the interest of the general public are extracted herein below:

“15. Main objective of taking up consolidation operation in a revenue estate is the interest of the general public for the purpose of better cultivation of land as is provided in Section 14 of the H.P. Holdings (Consolidation and Prevention Fragmentation) Act, 1971. The record prepared as a result of consolidation operation in revenue estate Damtal reveals a startling outcome of the consolidation operation in the said revenue estate. The holding of all the land owners in the revenue estate except that of Damtal Temple and Shri Harbhajan Singh have remained unaffected by the consolidatin operation. The land which the others held before consolidation

operation was allotted to them in the consolidation operation which means there was no change of possession etc. qua their land. It was only the land belonging to Damtal Temple and the one belonging to Shri Harbhajan Singh that too of uncultivated classification (which had nothing to do with the interests of general public) that possession thereof was ordered to be disturbed at various levels of this operation. Thus the result of the consolidation operation (which is still continuing) in the said revenue estate is that a big chunk of land 52-95-87 hectares belonging to the Damtal Temple has been ordered to be taken away and given to Shri Harbhajan Singh. As has been explained above, there is a long chain of litigation which is still going on as a civil writ petition is still pending in the Hon'ble High Court about the consolidation operation in which inclusion and exclusion of land belonging to Damtal Temple and Shri Harbhajan Singh has been ordered by all consolidation authorities has been challenged. Now District Administration is facing a public furor and criticism about the actions of consolidation authorities. Besides this, law and order problem is also taking place. The Damtal Temple has been deprived of a very big chunk of land on which perennial stock of sand and bajri is available which can be a source of income for this religious endowment. By an estimate lacs of rupees can be fetched annually as royalty alone by allowing extraction of stones and bajri from the said land of the temple.

16. From the above discussion it is manifestly clear that no useful purpose has been served as a result of taking up consolidation operation in the revenue estate Damtal and, therefore, it is recommended that declaration made under Section 14 regarding taking up consolidation operation in the said revenue estate may kindly be cancelled under Section 16 of the Act *ibid* so as to restore normally in the said area. If the declaration is so cancelled it will not affect right of any individual adversely as it will restore the pre-consolidation position qua the land belonging to each land owner in the revenue estate. Moreover, it will end the unnecessary litigation among the parties."

Thus, the Deputy Commissioner has reported to the State Government that during the consolidation operation in the Revenue Estate Damtal the holding of all the land owners in the revenue estate except that of Damtal Temple and the appellant have remained unaffected by the consolidation operation and the land which others held before the consolidation operation was allotted to them in the consolidation operation and the only land which were sought to be exchanged in the consolidation operations were the land belonging to the Damtal Temple and the land belonging to the appellant which were not cultivatable land and which had nothing to do with the interests of general public. The Deputy Commissioner has further reported that Damtal Temple was being deprived of a very big chunk of land on which perennial stock of sand and bajri is available which can be a source of income for this religious endowment. The Deputy Commissioner has concluded in his report that no useful purpose has been served by taking up consolidation operation in the Revenue Estate Damtal and has recommended that declaration made under Section 14 of the Act for taking up

consolidation operation in the Revenue Estate Damtal may be cancelled under Section 16 of the Act. It appears that acting on this report of the Deputy Commissioner dated 04.01.1999 the State Government has cancelled the declaration under Section 14 of the Act in relation to Revenue Estate Damtal only by the notification dated 27.09.1999.”

19. Section 16(1) of the Act states that the State Government may at any time cancel the declaration made under Section 14 in respect of any area and is silent as to the factors which the State must take into consideration for cancelling a declaration made under Section 14 of the Act in respect of any area. Section 14(1) of the Act, however, expressly states that the State Government while making a declaration under Section 14(1) of the Act has to keep in mind the interest of general public and the purposes of better cultivation of land. Where therefore after a declaration is made under Section 14(1) of the Act, the State Government finds that interest of general public and purposes of better cultivation do not warrant the consolidation operation to continue in a particular area, it can cancel the declaration made under Section 14(1) of the Act by issuing a notification under Section 16(1) of the Act and such cancellation of the declaration will not be extraneous to the object of the Act. In the present case, the report of the Deputy Commissioner was clear that interest of general public and better cultivation of land would not be achieved by continuing the consolidation operation. The dominant purpose for issuing a notification under Section 16(1) of the Act was, therefore, not extraneous but in accord with the objects of the Act. The High Court was, thus, right in coming to the conclusion that the notification issued by the State Government under Section 16(1) of the Act in relation to Revenue Estate Damtal was legal and valid.

“19. In the result, we do not find any merit in this appeal and we accordingly dismiss the same, but there shall be no order as to costs.

¹1964 (4) SCR 733

²(1895) ILR 22 Cal 788

³AIR 1966 Punjab 111