

Chattisgarh High Court

Baishakhu Ram Binjhavar vs South Eastern Coalfields Ltd on 11 September, 2017

W.P. (C) No. 3076/2016
and other connected matters

Page 1 of 64

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3076 of 2016

Order reserved on: 27-7-2017 and 23-8-2017

Order delivered on: 11-9-2017

Pyarelal, S/o Shri Shanich Ram, Aged about 35 years, R/o Village
Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd., Through Its Chairman Cum
Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba
Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of
Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Katghora, Civil &
Revenue District Korba (C.G.)

---- Respondents

WPC No. 3230 of 2016

Babu Lal, S/o Shri Ful Singh, Aged about 51 years, R/o Village
Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd., Through its Chairman Cum
Managing Director (C.M.D.), S.E.C.L. Seepat Raod, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Ltd. Korba Area
(Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of
Chhattisgarh Collectorate, Korba, District Korba (C.G.)

4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora,
Civil & Revenue District Korba (C.G.)

---- Respondents
W.P. (C) No. 3076/2016
and other connected matters

Page 2 of 64

WPC No. 3241 of 2016

Chotelal, S/o Shri Khema Lal, Aged about 55 years, R/o Village:
Budbud, Thana: Pali, Tahsil: Pali, Distt. Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman-Cum-
Managing Director (CMD), SECL, Seepat Road, Bilaspur, (C.G.)
2. Chief General Manager, South Eastern Coalfields Ltd. Korba Area
(Saraipali Open Cast Project) Korba, Distt. Korba, (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of
Chhattisgarh, Collectorate, Korba, Distt. Korba, (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil: Katghora,
Civil & Revenue Distt. Korba, (C.G.)

---- Respondents

WPC No. 3237 Of 2016

Mahetari Bai, W/o Mehtab, Aged about 67 years, R/o Village
Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through Its Chairman Cum
Managing Director (C.M.D.), S.E.C.L. Seepat Raod, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Ltd. Korba Area
(Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of
Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora,
Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3238 of 2016

Ganesh Ram, S/o Shri Manohar Das, Aged about 79 years, R/o

Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum
Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
W.P. (C) No. 3076/2016
and other connected matters

Page 3 of 64

2. Chief General Manager, South Eastern Coalfields Ltd. Korba Area
(Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of
Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora,
Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3231 of 2016

Ram Shankar, S/o Shri Bandhu Ram, Aged about 31 years, R/o
Village: Budbud, Thana: Pali, Tahsil: Pali, Distt. Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman-Cum-
Managing Director (CMD), S E C L, Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Ltd. Korba Area
(Saraipali Open Cast Project) Korba, Distt. Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of
Chhattisgarh, Collectorate, Korba, Distt. Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil: Katghora,
Civil & Revenue Distt. Korba (C.G.)

---- Respondents

WPC No. 3077 of 2016

Sadhram Bhariya S/o Rammadeshwar Bhariya, Aged about 65 years
R/o Village Budbud, Thana, Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum
Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)

2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents
W.P. (C) No. 3076/2016
and other connected matters

Page 4 of 64

WPC No. 3078 of 2016

Shyamlal Binjhwar, S/o Bhobhla Ram Binjhwar, Aged about 70 years, R/o Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Limited Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3079 of 2016

Baishakhu Ram Binjhavar, S/o Sukhnath, Aged about 55 years, R/o Village Budhud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)

4. Land Acquisition Officer / Sub Divisional Officer, Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3080 of 2016

Shimla Bai W/o Nirupan Say, Aged about 35 years, R/o Village:
Budbud, Thana: Pali, Tahsil: Pali, Distt. Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman-Cum-
Managing Director (CMD), S E C L, Seepat Road, Bilaspur (C.G.)
W.P. (C) No. 3076/2016
and other connected matters

Page 5 of 64

2. Chief General Manager, South Eastern Coalfields Ltd. Korba Area
(Saraipali Open Cast Project) Korba, Distt. Korba, (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of
Chhattisgarh, Collectorate, Korba, Distt. Korba, (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil: Katghora,
Civil & Revenue Distt. Korba, (C.G.)

---- Respondents

WPC No. 3082 of 2016

Ramcharan S/o Budhwar Singh, Aged about 45 years, R/o Village
Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum
Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba
Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of
Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora,
Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3083 of 2016

Baishakhu Ram Binjhavar vs South Eastern Coalfields Ltd on 11 September, 2017

Sabhaitin Bai W/o Mohan Lal, Aged about 45 years, R/o Village
Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum
Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba
Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of
Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Katghora, Civil &
Revenue District Korba (C.G.)

---- Respondents

W.P. (C) No. 3076/2016

and other connected matters

Page 6 of 64

WPC No. 3085 of 2016

Mathulal, S/o Shri Sahas Ram, Aged about 35 years, R/o Village
Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum
Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba
Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of
Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora,
Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3086 of 2016

Jageshvar Prasad, S/o Shri Budhavar, Aged about 34 years, R/o
Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Limited Through its Chairman Cum

Baishakhu Ram Binjhavar vs South Eastern Coalfields Ltd on 11 September, 2017

Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)

2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3087 of 2016

Smt. Pramila Bhariya, W/o Basant Kumar Bhariya, Aged about 30 years, R/o Village Budhud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through Its Chairman Cum
W.P. (C) No. 3076/2016
and other connected matters

Page 7 of 64

Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)

2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3088 of 2016

Budhvar Singh Binjhwar, S/o Shri Balram Binjhwar, Aged about 55 years, R/o Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum
Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)

3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3089 of 2016

Nandu Ram Yadav, S/o Itwar Singh Yadav, Aged about 70 years,
R/o Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora,
W.P.(C)No.3076/2016
and other connected matters

Page 8 of 64

Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3090 of 2016

Sudhram, S/o Shri Abhayram, Aged about 60 years, R/o Village
Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3091 of 2016

Jansingh Karpee, S/o Shri Shivcharan, Aged about 70 years, R/o
Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum
Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba
Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of
Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora,
Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3092 of 2016

Dharam Singh Binjhvar, S/o Hari Singh Binjhvar, Aged about 57
years, R/o Village Budbud, Thana Pali, Tahsil Pali, District Korba
(C.G.)

---- Petitioner

W.P. (C) No. 3076/2016
and other connected matters

Page 9 of 64

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum
Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba
Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of
Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil : Katghora,
Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3094 of 2016

Dhan Singh Karpi, S/o Shri Shivcharan, Aged about 75 years, R/o
Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil : Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3095 of 2016

Ram Prasad, S/o Shri Jhadi Ram, Aged about 55 years, R/o Village: Budbud, Thana: Pali, Tahsil: Pali, Distt. Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman- Cum- Managing Director (C M D), S E C L, Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Ltd. Korba Area (Saraipali Open Cast Project) Korba, Distt. Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh, Collectorate, Korba, Distt. Korba (C.G.)

W.P.(C)No.3076/2016
and other connected matters

Page 10 of 64

4. Land Acquisition Officer / Sub Divisional Officer, Tahsil: Katghora, Civil & Revenue Distt. Korba (C.G.)

---- Respondents

WPC No. 3096 of 2016

Amrit Lal Nayak, S/o Shri Ramji Nayak, Aged about 62 years, R/o Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Limited Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)

2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil : Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3097 of 2016

Bundel Singh Sonwani S/o Sampat Sonwani, Aged about 55 years,
R/o Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil : Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3098 of 2016

Man Singh, S/o Shri Sukhalu Singh, Aged about 50 years, R/o
Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

W.P. (C) No. 3076/2016
and other connected matters

Page 11 of 64

Vs

1. South Eastern Coalfields Limited Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora,

Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3099 of 2016

Samarin Bai, W/o Ramji, Aged about 55 years, R/o Village Budbud,
Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum
Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba
Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of
Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil : Katghora,
Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3102 of 2016

Sobharam, S/o Shri Bukhanlal, Aged about 70 years, R/o Village:
Budbud, Thana: Pali, Tahsil: Pali, Distt. Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman- Cum
Managing Director (CMD), S E C L, Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Ltd. Korba Area
(Saraipali Open Cast Project) Korba, Distt. Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of
Chhattisgarh, Collectorate, Korba, Distt. Korba (C.G.)

W.P. (C) No. 3076/2016
and other connected matters

Page 12 of 64

4. Land Acquisition Officer / Sub Divisional Officer, Tahsil: Katghora,
Civil & Revenue Distt. Korba (C.G.)

---- Respondents

WPC No. 3104 of 2016

Samundar Bai, W/o Amrit Lal, Aged about 65 years, R/o Village:
Budbud, Thana: Pali, Tahsil: Pali, Distt. Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman- Cum Managing Director (CMD), S E C L, Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Ltd. Korba Area (Saraipali Open Cast Project) Korba, Distt. Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh, Collectorate, Korba, Distt. Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil: Katghora, Civil & Revenue Distt. Korba (C.G.)

---- Respondents

WPC No. 3105 of 2016

Rama Nayak, S/o Lalji Nayak, Aged about 59 years, R/o Village: Budbud, Thana: Pali, Tahsil: Pali, Distt. Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman-Cum-Managing Director (CMD), S E C L, Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Ltd. Korba Area (Saraipali Open Cast Project) Korba, Distt. Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh, Collectorate, Korba, Distt. Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil: Katghora, Civil & Revenue Distt. Korba (C.G.)

---- Respondents

WPC No. 3107 of 2016

Uchit Ram, S/o Shri Jagat Ram, Aged about 40 years, R/o Village Budbud, Thana, Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

W.P. (C) No. 3076/2016
and other connected matters

Page 13 of 64

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)

2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil : Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3108 of 2016

Jawahar Lal Banjara, S/o Shri Ram Lal, Aged about 53 years, R/o Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur C.G.
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3109 of 2016

Galiram Binjhvar, S/o Shri Kunjram Binjhvar, Aged about 50 years, R/o Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)

W.P. (C) No. 3076/2016
and other connected matters

Page 14 of 64

4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora,

Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3110 of 2016

Janak Ram, S/o Shri Ram Prasad, Aged about 37 years, R/o
Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Limited Through its Chairman Cum
Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba
Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of
Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora,
Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3111 of 2016

Ramcharan, S/o Late Beduram, Aged about 36 years, R/o Village
Budhud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum
Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba
Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of
Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Katghora, Civil &
Revenue District Korba (C.G.)

---- Respondents

WPC No. 3113 of 2016

Umend Ram Binjhvar, S/o Shri Dhan Singh, Aged about 55 years,
R/o Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

W.P. (C) No. 3076/2016
and other connected matters

Vs

1. South Eastern Coalfields Limited Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3114 of 2016

Rajesh Kumar Nayak, S/o Daniram Nayak, Aged about 25 years,
R/o Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3115 of 2016

Babulal Nayak, S/o Shri Ramlal Nayak, Aged about 55 years, R/o
Village Budbud, Thana, Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of

Chhattisgarh Collectorate, Korba, District Korba (C.G.)

W.P. (C) No. 3076/2016
and other connected matters

Page 16 of 64

4. Land Acquisition Officer / Sub Divisional Officer, Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3116 of 2016

Dindayal, S/o Shri Madhai Ram, Aged about 50 years, R/o Village
Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3117 of 2016

Amar Lal, S/o Shri Ramji, Aged about 55 years, R/o Village:
Budbud, Thana: Pali, Tahsil: Pali, Distt. Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Limited Through its Chairman-Cum Managing Director (CMD), SECL, Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Ltd. Korba Area (Saraipali Open Cast Project) Korba, Distt. Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh, Collectorate, Korba, Distt. Korba, (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil: Katghora, Civil & Revenue Distt. Korba (C.G.)

---- Respondents

WPC No. 3121 of 2016

Smt. Brihaspathi Nayak, W/o Late Chandrapal Nayak, Aged about 40 years, R/o Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner
W.P. (C) No. 3076/2016
and other connected matters

Page 17 of 64

Vs

1. South Eastern Coalfields Limited Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3122 of 2016

Tilmat Bai, W/o Chhedu Ram, Aged about 46 years, R/o Village Budbud, Thana, Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3123 of 2016

Santoshi Bai, W/o Narayan Prasad Nayak, Aged about 36 years, R/o Village Budhud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
 2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
 3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
- W.P. (C) No. 3076/2016
and other connected matters

Page 18 of 64

4. Land Acquisition Officer / Sub Divisional Officer, Katghora, Civil & Revenue District Korba (C.G.)
- Respondents

WPC No. 3125 of 2016

Raghavendra Kumar Nayak, S/o Late Shambhu Lal Nayak, Aged about 30 years, R/o Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Limited Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
 2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
 3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
 4. Land Acquisition Officer / Sub Divisional Officer, Katghora, Civil & Revenue District Korba (C.G.)
- Respondents

WPC No. 3128 of 2016

Anitram Karpi, S/o Shri Bhulao Ram, Aged about 65 years, R/o Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)

3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil : Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3129 of 2016

Tijauram Binjhwar, S/o Shri Nawal Singh, Aged about 55 years, R/o Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

W.P.(C)No.3076/2016
and other connected matters

Page 19 of 64

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3130 of 2016

Puniram Keshaw, S/o Shri Uderam, Aged about 31 years, R/o Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman Cum Managing Director (C.M.D.), S.E.C.L. Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Limited, Korba Area (Saraipali Open Cast Project), Korba, District Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of Chhattisgarh Collectorate, Korba, District Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Katghora, Civil & Revenue District Korba (C.G.)

---- Respondents

WPC No. 3221 of 2016

Rameshwar Prasad, S/o Shri Kitab Singh Aged about 36 years, R/o
Village Budbud, Thana Pali, Tahsil Pali, Distt. Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman-Cum-
Managing Director (CMD), SECL, Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Ltd. Korba Area
(Saraipali Open Cast Project), Korba, Distt. Korba (C.G.)
3. District Collector-Cum-Officiating Dy. Secretary, Government of
Chhattisgarh, Collectorate, Korba, Distt. Korba (C.G.)

W.P. (C) No. 3076/2016
and other connected matters

Page 20 of 64

4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora,
Civil & Revenue District Korba (C.G.)

---- Respondents

AND

WPC No. 3222 of 2016

Anjor Singh, S/o Paras Ram, Aged about 65 years, R/o Village:
Budbud, Thana: Pali, Tahsil: Pali, Distt. Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd. Through its Chairman-Cum-
Managing Director (CMD), SECL, Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Ltd., Korba Area
(Saraipali Open Cast Project), Korba, Distt Korba (C.G.)
3. District Collector Cum Officiating Dy. Secretary, Government of
Chhattisgarh, Collectorate, Korba, Distt. Korba (C.G.)
4. Land Acquisition Officer/Sub Divisional Officer, Tahsil: Katghora,
Civil & Revenue Distt. Korba (C.G.)

---- Respondents

WPC No. 3219 of 2016

Itwar Sonwani, S/o Shri Ganpat Sonwani, aged about 60 years, R/o
Village Budbud, Thana Pali, Tahsil Pali, Distt. Korba (C.G.)

---- Petitioner

Versus

1. South Eastern Coalfields Ltd., Thro' Its Chairman-cum-Managing Director (CMD), SECL, Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Ltd., Korba Area (Saraipali Open Cast Project), Korba, Distt. Korba (C.G.)
3. District Collector-cum-Officiating Dy. Secretary, Government of Chhattisgarh, Collectorate, Korba, Distt. Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora, Civil & Revenue Distt. Korba (C.G.)

---- Respondents

WPC No. 3081 of 2016

Makhan, S/o Shri Tularam, aged about 70 years, R/o Village

W.P.(C)No.3076/2016
and other connected matters

Page 21 of 64

Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd., Thro' Its Chairman-cum-Managing Director (CMD), SECL, Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Ltd., Korba Area (Saraipali Open Cast Project), Korba, Distt. Korba (C.G.)
3. District Collector-cum-Officiating Dy. Secretary, Government of Chhattisgarh, Collectorate, Korba, Distt. Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora, Civil & Revenue Distt. Korba (C.G.)

---- Respondents

WPC No. 3112 of 2016

Amrita Bai Sonwani, W/o Mahettar Sonwani, aged about 55 years,
R/o Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd., Thro' Its Chairman-cum-Managing Director (CMD), SECL, Seepat Road, Bilaspur (C.G.)

2. Chief General Manager, South Eastern Coalfields Ltd., Korba Area (Saraipali Open Cast Project), Korba, Distt. Korba (C.G.)
3. District Collector-cum-Officiating Dy. Secretary, Government of Chhattisgarh, Collectorate, Korba, Distt. Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora, Civil & Revenue Distt. Korba (C.G.)

---- Respondents

WPC No. 3106 of 2016

Gorelal Nayak, S/o Shri Kamod Nayak, aged about 55 years, R/o Village Budbud, Thana Pali, Tahsil Pali, Distt. Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd., Thro' Its Chairman-cum-Managing Director (CMD), SECL, Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Ltd., Korba Area (Saraipali Open Cast Project), Korba, Distt. Korba (C.G.)

W.P. (C) No. 3076/2016
and other connected matters

Page 22 of 64

3. District Collector-cum-Officiating Dy. Secretary, Government of Chhattisgarh, Collectorate, Korba, Distt. Korba (C.G.)
4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora, Civil & Revenue Distt. Korba (C.G.)

---- Respondents

AND

WPC No. 3235 of 2016

Ram Kumar Nayak, S/o Shri Rama Nayak, aged about 36 years, R/o Village Budbud, Thana Pali, Tahsil Pali, District Korba (C.G.)

---- Petitioner

Vs

1. South Eastern Coalfields Ltd., Thro' Its Chairman-cum-Managing Director (CMD), SECL, Seepat Road, Bilaspur (C.G.)
2. Chief General Manager, South Eastern Coalfields Ltd., Korba Area (Saraipali Open Cast Project), Korba, Distt. Korba (C.G.)
3. District Collector-cum-Officiating Dy. Secretary, Government of

Chhattisgarh, Collectorate, Korba, Distt. Korba (C.G.)

4. Land Acquisition Officer / Sub Divisional Officer, Tahsil Katghora,
Civil & Revenue Distt. Korba (C.G.)

---- Respondents

For Petitioners: Mr. Sanjay Kumar Agrawal, Advocate.

For Respondents No.1 and 2: -

Dr. N.K. Shukla, Senior Advocate with Mr. Sudhir
Kumar Bajpai, Mr. V.R. Tiwari, Mr. Vinod
Deshmukh and Mr. Vivek Chopda, Advocates.

For Respondents No.3 and 4 / State: -

Mr. Prasun Kumar Bhaduri, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

C.A.V. Order

1. Since all the above writ petitions involve common question of fact
and law, they are being disposed of by this common order.

2. Impugning legality, validity and correctness of land acquisition
proceeding case No.10A/82/2004-05 of Village Budbud, Tahsil Pali,
W.P. (C)No.3076/2016
and other connected matters

Page 23 of 64

District Korba and also seeking quashment of the said entire land
acquisition proceeding including the award dated 6-9-2007, this
batch of writ petitions has been filed by the land holders who are 48
in number. Alternatively, they have also prayed to recalculate the
compensation granted to them as per the Right to Fair
Compensation and Transparency in Land Acquisition,
Rehabilitation and Resettlement Act, 2013 (for short, 'the Act of
2013') or as per the revised rate announced by the State
Government on 19-3-2010 for payment of difference amount of
compensation and also to grant interest at the rate of 1% per
month to the petitioners from the date the revised rate of
compensation came into effect i.e. 19-3-2010. Lastly, it has been

prayed that the respondents be directed to frame a proper rehabilitation plan and implement it and extend other rehabilitation benefits also as per the Chhattisgarh Model Rehabilitation Policy, 2007 along with the Madhya Pradesh Rehabilitation Policy, 1991 and also that the petitioners are entitled for regular salary till regular employment is provided as per clause 11 of the Chhattisgarh Model Rehabilitation Policy, 2007.

3.The writ petitions have been filed primarily on the ground that the land acquisition award has been passed on 6-9-2007, whereas the compensation was deposited on 21-11-2007 by South Eastern Coalfields Limited (SECL) and compensation ought to have been deposited by the respondent SECL through the State before passing of the award and for non-deposit of the amount of
W.P. (C)No.3076/2016
and other connected matters

Page 24 of 64

compensation prior to passing of the award, the award is vitiated which cannot be acted upon. It has further been pleaded that the petitioners have withdrawn the amount of compensation awarded to them on 12-3-2013 and possession with the petitioners has still not been taken-over and land is not vested free from all encumbrances to the State Government and the new Land Acquisition Act i.e. the Act of 2013 has already come into force with effect from 1-1-2014 and by virtue of the provisions contained in Section 24 (2) of the Act of 2013, possession has not been taken and proper compensation which the petitioners are entitled for has not been paid, therefore, the land acquisition proceeding would

stand lapsed. Further, alternative relief has also been claimed for revised compensation as per the Government order dated 19-3-2010 or as per the new Act of 2013 along with interest and salary till regular employment is provided as per clause 11 of the Chhattisgarh Model Rehabilitation Policy, 2007 and also claimed that the petitioners are also entitled for rehabilitation according to the Madhya Pradesh Rehabilitation Policy, 1991 read with the Chhattisgarh Model Rehabilitation Policy, 2007.

4. Return has been filed by the State/respondents No.3 and 4 stating inter alia that the writ petitions as framed and filed are not maintainable in law. The award has been passed on 6-9-2007, whereas the writ petitions have been filed on 3-12-2016 and thereafter, and there is no explanation for inordinate delay in filing the writ petitions, no plausible explanation-cum-justification has
W.P. (C) No. 3076/2016
and other connected matters

Page 25 of 64

been offered for culpable delay in filing the writ petitions. The petitioners have obtained compensation. In the case of Pyarelal i.e. the petitioner in W.P. (C) No. 3076/2016, the petitioner has obtained the compensation of 2,40,923-75 on 12-3-2013 and thereafter the Act of 2013 was promulgated and came into force on 1-1-2014. It has also been pleaded that if the petitioners are having any grievance with respect to compensation awarded to them, they were having an effective and efficacious remedy to make reference under Section 18 of the Land Acquisition Act, 1894. It has also been asserted that the possession of land has been taken on 19-11-2010 and it has been given to the Chief

General Manager, SECL, Korba Area by the Tahsildar, Pali and as such, the writ petitions are not maintainable, as the land having been vested in the Government free from encumbrances under Section 16 of the Act of 1894 and possession having been taken-over, the writ petitions as framed and filed are not maintainable and therefore the petitioners having obtained compensation on 12-3-2013, the contingency enumerated in Section 24 (2) of the Act of 2013 is not attracted at all and the question of deemed lapse of proceeding of land acquisition does not arise and as such, the writ petitions deserve to be dismissed.

5.Rejoinder has been filed opposing the averments made in the return.

6. Mr. Sanjay Kumar Agrawal, learned counsel appearing for all the writ petitioners, opening the argument and making submission
W.P.(C)No.3076/2016
and other connected matters

Page 26 of 64

would vehemently submit as under: -

1. The entire land acquisition proceeding initiated by reason of issuance of notification under Section 4 of the Land Acquisition Act, 1894, culminated in award dated 6-9-2007 in Land Acquisition Case No.10A/82/2004-05 in Village Budbud, Tahsil Pali, District Korba, deserves to be quashed for the simple reason that the award was passed prior in time on 6-9-2007, whereas the compensation was deposited by SECL to the State on 21-11-2007.
2. The notice under Section 12 (2) of the Land Acquisition Act,

1894 was only served in the month of January, 2013 and till January, 2013, compensation was not deposited in the reference court under Section 31 of the Act of 1894.

3. Though the petitioners have withdrawn compensation on 12-3-2013, they remained in possession of land till the new Act of 2013 came into force with effect from 1-1-2014 which is apparent from the fact that Panchnama has been prepared that they are in possession. Therefore, by virtue of Section 24 (2) of the Act of 2013, possession has not been taken from them and as such, the proceeding would stand lapsed and therefore the proceeding is required to be initiated afresh under the Act of 2013.
4. In alternative, Mr. Agrawal, learned counsel, would submit that if acquisition is held to be valid, then the petitioners are entitled for compensation as per the revised rate announced
W.P. (C) No. 3076/2016
and other connected matters

Page 27 of 64

- by the State Government on 19-3-2010 along with 1% interest per month from the date of revised rate of compensation till the actual payment or as per the new Act of 2013.
5. The petitioners are entitled for employment under the M.P. Rehabilitation Policy, 1991 and the Chhattisgarh Model Rehabilitation Policy, 2007, since acquisition has been made in 2007, the petitioners are entitled for salary until regular employment is provided as per clause 11 of the Model Rehabilitation Policy, 2007 along with arrears.

7. Mr. Prasun Kumar Bhaduri, learned Government Advocate

appearing for the State/respondents No.3 and 4, strongly opposing the submission made on behalf of the petitioners would submit as under: -

1. The writ petitions as framed and filed suffer from delay and laches. Inordinate delay of 9 years in filing the writ petitions questioning the acquisition has not been explained sufficiently and properly, as the award was undisputedly passed on 6-9-2007 and most of the petitioners have received compensation on 12-3-2013, but the writ petitions have been filed as late as on 5-12-2016 without explaining the delay and as such on this solitary ground, the writ petitions deserve to be dismissed.

2. The Land Acquisition Officer has passed award in favour of the petitioners and compensation has also been determined
W.P. (C) No. 3076/2016
and other connected matters

Page 28 of 64

which the writ petitioners have accepted willingly without any protest or demur and as they did not make any application for enhancing compensation by making reference to the Collector under the Land Acquisition Act, 1894, they are not entitled to turn around questioning the acquisition proceeding and challenging the award, as such, the writ petitions deserve to be dismissed.

3. The petitioners' right, title and interest over the land would stand extinguished upon acquisition and their status would

be persona non grata and they have no right except the right to get compensation which they have admittedly received and thereby on due acquisition, the land is vested with the Government free from all encumbrances by virtue of Section 16 of the Land Acquisition Act, 1894. Therefore, the petitioners have no right to question the acquisition proceeding.

4. The possession of large chunk of land i.e. total 506 acres has been acquired at Village Budbud and land oustees are 811, out of which only 53 of the land oustees have challenged the acquisition proceeding by way of writ petitions and rest have not challenged already accepting the compensation or did not challenge for the reasons best known to them. Total compensation of 10,34,41,863/- has been deposited. Possession has been handed-over on 19-11-2010 by the Revenue Officer to SECL which has been filed as Annexure W.P. (C) No. 3076/2016 and other connected matters

Page 29 of 64

R-7 i.e. large chunk of land of 506 acres. Except 53 land oustees, others have not challenged the proceeding and taking over of possession, even assuming no proper panchnama has been prepared in presence of witnesses acquisition has become final.

5. Once the acquisition is complete and award is passed by virtue of Section 16 of the Land Acquisition Act, 1894, the land is vested with the Government and land owners entering into land cannot be said to be in actual possession of land.

Reliance has been placed upon a decision of the Supreme Court in the matter of Balwant Narayan Bhagde v. M.D. Bhagwat and others¹ (para 29) to buttress his submission that after the land is vested in the Government by virtue of the provisions contained in the Land Acquisition Act, 1894, the land owners remaining in possession did have the effect of obliterating the consequence of vesting. In view of the fact that land has already been vested with the Government prior to coming into force of the Act of 2013 on 1-1-2014, the provisions of the Act of 2013 would not be applicable in the present case.

6. The writ petitioners having obtained compensation as back as on 12-3-2013 have not raised any reference under Section 18 of the Act of 1894 for enhancement of the amount of their compensation and thus, now, they cannot make

¹ (1976) 1 SCC 700

W.P. (C) No. 3076/2016
and other connected matters

Page 30 of 64

protest of the said compensation that the same is on lower side and that they are entitled for compensation as per the Government order dated 19-3-2010. The writ petitions framed and filed claiming enhancement of compensation are not maintainable under Section 18 of the Act of 1894.

8. Dr. N.K. Shukla, learned Senior Advocate appearing on behalf of respondents No.1 and 2/SECL, has addressed only on the point of rehabilitation of the writ petitioners. He submits that the petitioners

will be entitled for rehabilitation employment as per the rehabilitation policy of 2012 of Coal India Limited.

9.Mr. Agrawal, learned counsel, while making rejoinder submission on behalf of the petitioners would submit that the petitioners are entitled for the benefits of rehabilitation/ employment as per the Madhya Pradesh Rehabilitation Policy, 1991, as amended in 1995, which was in force at the time when the acquisition was made and the rehabilitation policy issued by the Governor whereas, Coal India Limited framed policy in 2012 which would not be applicable in the present case, as the said policy of 2012 has no statutory backing in terms of Article 166 of the Constitution of India. Reliance has been placed upon an order passed by a coordinate Bench of this Court on 23-7-2015 in W.P.(S) No.432/2011 (Ku. Rattho Bai and another v. South Eastern Coalfields Limited and others). Award dated 6-9-2007 (page 83 of the writ petition) and memo dated 5-8-2014 (page 151 to 164 of the writ petition) also clearly state that the petitioners are entitled for the benefit of W.P.(C)No.3076/2016 and other connected matters

Page 31 of 64

rehabilitation as per the Madhya Pradesh Rehabilitation Policy, 1991.

10.I have heard learned counsel for the parties, considered their rival submissions made herein-above and gone through the record with utmost circumspection.

11. Following questions arise for determination: -

1. Whether the writ petitions as framed and filed challenging the

land acquisition proceedings including the award dated 6-9-2007 are maintainable or hit by delay and laches in filing the writ petitions?

2. Whether by reason of fact that the award was passed on 6-9-2007, the SECL was directed to take possession on 19-11-2010 by the Tahsildar concerned and possession was delivered to the SECL, and payment of compensation was made to the land holders/petitioners on 12-3-2013, can the land acquisition proceedings deemed to have been lapsed as contemplated by Section 24 of the Act of 2013?

3. Whether the writ petitioners are entitled for higher compensation in absence of reference under Section 18 read with Section 31 of the Land Acquisition Act, 1894?

4. Whether the writ petitioners are entitled to be rehabilitated as per the Madhya Pradesh Rehabilitation Policy, 1991?

12. In my opinion, question No.2 would be required to be determined

first as that goes to the root of the controversy involved herein.

W.P. (C)No.3076/2016
and other connected matters

Page 32 of 64

13. In the present case, the Government of India, Ministry of Coal and Mines, Department of Coal, by memo dated 23-4-2004 requested the Collector, Korba for acquisition of 215.751 hectares tenancy land and 20.837 hectares Government land at Villages: Budbud and Rahadih, for Saraipali Open Cast Project, Colony, road and infrastructure and excavation of coal urgently invoking the provisions of the urgency clause as contained in Section 17 of the Land Acquisition Act, 1894 and thereafter, the wheels for

acquisition for the said lands started running from 16-6-2004. Notification under Section 4 was passed and published on 29-4-2005 which was published in the Chhattisgarh Rajpatra dated 20-5-2005. Thereafter, notification under Section 6 was published on 23-9-2005 and ultimately, the award was passed on 6-9-2007. Compensation of 10,34,41,863/- was deposited with the State Government. The officers of the State Government in presence of the SECL made inspection of lands and ultimately, by order dated 19-11-2010, the Tahsildar delivered possession of land to the SECL and directed for mutation of land in favour of the SECL. The aforesaid memo states as under:-

dk;kZy; rglhynkj ikyh] ftyk & dksjck ¼N-x-½
Kkiu
dzeakd % d@rg-@2010 ikyh fnukad -----

izfr]
eq[; egkizca/kd
,lbZlh,y dksjck {ks=A

W.P. (C) No.3076/2016
and other connected matters

Page 33 of 64

fo"k; & ljbZikyh vksiu &dkLV ifj;kstuk gsrq vftZr dh xbZ Hkwfe
dk vf/kiR; nsus ckcr~A
lanHkZ & dzeakd 2013@vfov@Hkw&vtZu@2009 dV?kksjk fnukad
30@10@10

dksjck {ks= ,lbZlh,y dh ljbZikyh vksiu dkLV ifj;kstuk
gsrq xzke cqMcqM i-g-u-09] jk-fu-e- ikyh] rglhy ikyh] ftyk dksjck
¼N-x-½ fLFkr 503-09 ,dM futh Hkwfe rFkk xzke &jkgkMhg i-g-u-09]
jk-fu-e- ikyh] rglhy ikyh] ftyk dksjck ¼N-x-½ fLFkr 45-69 ,dM
futh Hkwfe dk vtZu Hkw&vtZu vf/kfu;e ds varxZr fd;k x;k gS
ftleas dysDVj egksn; ftyk dksjck }kjk vokMZ ikfjr fd;k x;k gS
rFkk ,lbZlh,y dksjck {ks= }kjk vftZr Hkwfe dh eqvкотk jkf'k
vuqfoHkkxh; vf/kdkjh dV?kksjk ds dk;kZy; es tek dj nh xbZ gSA
vuqfoHkkxh; vf/kdkjh ¼jktLo½ dV?kksjk ds }kjk mijksDr

lanfHkZr i= ds ek/;e ls fn;s x;s funsZ'kkuqlkj] ljbZikh ifj;kstuk
gsrq xzke & jkgkMhg ,oa xzke&cqMcqM dh vftZr dh xbZ Hkwfe
½dysDVj egksn; dksjck }kjk ikfjr layXu vokMZ ds vuqlkj½ dk
vkf/kiR; ,lbZlh,y dkjsck {ks= dks iznku fd;k tkrk gSaA
dksjck {ks= ,lbZlh,y dks ;g funsZf'kr fd;k tkrk gS fd
og vftZr dh xbZ Hkwfe dk ukeakrj.k vius i{k es 'kh?kz :i ls
dj;k;sA

rglhynkj
ikyh
ftyk&dksjck ½N-x-½

14.It is the case of the respondent SECL that after the possession was
taken, revenue records have been corrected and now, the subject
land is duly recorded in the name of SECL. Now, the question is
whether it can be said that possession has been taken from the
petitioners and subject land is vested, free from all encumbrances,

W.P.(C)No.3076/2016
and other connected matters

Page 34 of 64

in the Government under Section 16 of the Act of 2013, as
compensation has already been paid to the petitioners. Law in this
regard is very well settled. In the matter of Banda Development
Authority v. Motilal Agrawal and others 2, the Supreme Court has
laid down the manner of taking possession of acquired land by the
Land Acquisition Officer which states as under: -

"37. The principles which can be culled out from the
above noted judgments are:

(i) No hard and fast rule can be laid down as to what
act would constitute taking of possession of the
acquired land.

(ii) If the acquired land is vacant, the act of the
concerned State authority to go to the spot and prepare
a panchnama will ordinarily be treated as sufficient to
constitute taking of possession.

(iii) If crop is standing on the acquired land or
building/structure exists, mere going on the spot by the
concerned authority will, by itself, be not sufficient for
taking possession. Ordinarily, in such cases, the

concerned authority will have to give notice to the occupier of the building/structure or the person who has cultivated the land and take possession in the presence of independent witnesses and get their signatures on the panchnama. Of course, refusal of the owner of the land or building/structure may not lead to an inference that the possession of the acquired land has not been taken.

(iv) If the acquisition is of a large tract of land, it may not be possible for the acquiring/designated authority to take physical possession of each and every parcel of the land and it will be sufficient that symbolic possession is taken by preparing appropriate document in the presence of independent witnesses and getting their signatures on such document.

(v) If beneficiary of the acquisition is an agency/instrumentality of the State and 80% of the total compensation is deposited in terms of Section 17(3A) and substantial portion of the acquired land has been

2 (2011) 5 SCC 394

W.P. (C) No. 3076/2016
and other connected matters

Page 35 of 64

utilised in furtherance of the particular public purpose, then the Court may reasonably presume that possession of the acquired land has been taken."

15. The aforesaid decision has been followed by the Supreme Court

with approval in the matter of Delhi Development Authority v.

Sukhbir Singh and others³.

16. This brings me to examine as to whether the possession can be

said to have been taken from the petitioners in terms of the

principles of law laid down by the Supreme Court in Banda

Development Authority (supra).

17. The instant writ petition {W.P. (S) No. 3076/2016} was filed on 5-12-

2016 and in the writ petition, the entire facts have been stated and

in para 10, it has been admitted that compensation has been paid

to the petitioner which is not just and proper compensation and

various grounds have been taken in the writ petition seeking enhanced compensation. In para 9.18, a plea has been taken that physical possession of land has not been taken and the petitioner is still in possession of the subject land and therefore he is entitled for the benefit of Section 24 (2) of the Land Acquisition Act, 1894.

It has not been shown as to how the petitioners are continuing in possession of such a huge tract of land ad-measuring acres of land. The only plea to question the land acquisition is that since the compensation was not deposited prior to passing of the award, the land acquisition is deemed to have been lapsed. The petitioners have failed to substantiate this plea and did not bring to

3 AIR 2016 SC 4275

W.P. (C) No. 3076/2016
and other connected matters

Page 36 of 64

the notice of this Court any legal provision barring passing of award, if any, or making deposit of the amount of compensation as condition precedent, therefore, such a plea on behalf of the petitioners cannot be entertained. In para 10(iii), a relief has been sought that the award be quashed with a condition to return the part of amount of compensation already paid to the petitioner and alternatively, compensation as per the new Land Acquisition Act of 2013 or revised compensation announced by the State Government as per the memo dated 19-3-2010 has been claimed and rehabilitation as per the Madhya Pradesh Rehabilitation Policy, 1991 read with the Chhattisgarh Model Rehabilitation Policy, 2007 has also been claimed.

18.As stated herein-above, as per the award, there are 811 land owners whose lands have been subjected to acquisition and total area of land acquired is 506 acres out of which only 53 land owners have challenged their acquisition with an inconsistent plea of quashing the acquisition on the one hand and on the other hand, claiming payment of higher amount of compensation as well as the relief of rehabilitation as per the Madhya Pradesh Rehabilitation Policy, 1991. The award was passed on 6-9-2007, possession is said to have been taken on 19-11-2010 and compensation has been paid to land oustees on 12-3-2013. Most of the land owners have accepted their compensation and the petitioners simply averred in the writ petitions that possession has not been taken without indicating how they are continuing in possession of such

W.P. (C)No.3076/2016
and other connected matters

Page 37 of 64

huge tract of land, as it has been noticed and held herein-above that possession of subject land has already been taken from the petitioners and only when the Act of 2013 came into force with effect from 1-1-2014, in order to take advantage of that Act, the petitioners have filed these writ petitions against the land acquisition proceeding which has already been concluded. The petitioners' conduct in making repeated representations only seeking enhancement of compensation and further seeking employment as per the Madhya Pradesh Rehabilitation Policy, 1991 would further strengthen the fact that possession has already been taken from them and they have never protested taking of possession of land by the respondents. They did not state in any

of the representations so made filed along with the writ petitions that even after acceptance of compensation, they are continuing in possession and, therefore, land acquisition proceeding be revoked or set-aside.

19. Thus, from the aforesaid discussion it is quite vivid that,

(1) The award was passed by the Land Acquisition Officer for acquisition of 506 acres of land belonging to 811 land owners / oustees and the writ petitions have been filed only by 53 land owners.

(2) The award was passed way back on 6-9-2007. The

compensation has been received by the petitioners on 12-3-2013.

Possession is said to have been taken on 19-11-2010 and

thereafter, mutation in revenue records has been made in favour of

W.P. (C) No. 3076/2016
and other connected matters

Page 38 of 64

the beneficiary SECL. The writ petitions have been filed by the petitioners on 4-12-2016. The petitioners have only stated that possession has not been taken, however, the manner of continuing in possession has not been stated by the petitioners.

(3) The petitioners have made several representations, as stated in the writ petitions, after getting the compensation amount from 19-11-2010 up to 25-2-2016, but in all such representations they have only claimed and laid emphasis on the question of rehabilitation as per the rehabilitation policy and sought employment in the SECL, and even they have not whispered about continuing in possession after taking compensation.

(4) The Supreme Court in Banda Development Authority (supra) has also held that no hard and fast rule can be laid down as to what act would constitute taking of possession of the acquired land and also held that if beneficiary of acquisition is an agency/ instrumentality of the State and 80% of the total compensation is deposited and substantial portion of acquired land has been utilised in furtherance of the particular public purpose, then the Court may reasonably presume that possession of the acquired land has been taken.

20. From the aforesaid narration of facts, it is quite vivid that though in the instant case, panchnama has not been prepared but huge tract of land running into 506 acres has been acquired and all land oustees including the petitioners have accepted compensation without any demur or protest and they are only protesting and

W.P. (C) No. 3076/2016
and other connected matters

Page 39 of 64

making representations for rehabilitation by seeking employment. By the order of the Tahsildar, possession has been given to SECL way back on 19-11-2010 and their names have been mutated in revenue records. SECL is a Government of India undertaking and entire compensation has been paid to the land owners and substantial portion of acquired land is said to be utilised for public purpose of opening Saraipali Open Cast Mines Project and road, and for excavation of coal etc., in terms of Banda Development Authority (supra) followed in Delhi Development Authority (supra). In this factual score, this Court may reasonably presume that possession of acquired land has already been taken from the

petitioners. The plea raised in this behalf on behalf of the petitioners that they are continuing in possession is totally a result of an afterthought to claim the benefit of Section 24 (2) of the Act of 2013. Therefore, it is held that possession has already been taken from the petitioners and title vests in the State free from all encumbrances under Section 16 of the Land Acquisition Act, 1894, as such, Section 24 (2) of the Act of 2013 would not apply. This issue is answered accordingly.

21. Now, this would bring me to the next issue - question No.1 which relates to maintainability of writ petitions on the ground of delay and laches and that the petitioners are precluded from taking inconsistent and destructive plea.

22. Undisputedly, the award was passed on 6-9-2007 and prior to that, notifications under Sections 4 and 6 of the Land Acquisition Act, W.P. (C) No. 3076/2016 and other connected matters

Page 40 of 64

1894 were issued. The writ petitions were filed on 5-12-2016 before this Court. In para 7 of the writ petition, the petitioner has conveniently and comfortably declared that there is no delay in filing the writ petition, whereas, there is a huge delay of more than ten years, as Section 4, notification, of the Act was issued on 29-4-2005 and Section 6 notification was issued on 23-9-2005 and other proceedings were completed and award was passed on 6-9-2007 and thereafter, compensation was paid to the petitioners on 12-3-2013 and prior to that possession was taken on 19-11-2010, as such, there is huge delay of more than ten years in challenging the

acquisition.

23. At this stage, it would be appropriate to notice long line of decisions

of the Supreme Court qua delay in challenging the land acquisition

proceedings. First of all, in this line the Constitution Bench

decision of the Supreme Court in the matter of Aflatoon v. Lt.

Governor of Delhi⁴ is pertinent to be noticed in which the Supreme

Court has held that valid notification under Section 4 is sine qua

non for initiation of proceedings for acquisition of land and owners

were not justified in sitting on the fence and allowing the

Government to complete the acquisition proceeding.

Their

Lordships observed in paragraph 11 of the report qua delay, as

under: -

"11. Nor do we think that the petitioners in the writ petitions should be allowed to raise this plea in view of their conduct in not challenging the validity of the notification even after the publication of the declaration

4 (1975) 4 SCC 285

W.P. (C) No. 3076/2016
and other connected matters

Page 41 of 64

under Section 6 in 1966. Of the two writ petitions, one is filed by one of the appellants. There was apparently no reason why the writ petitioners should have waited till 1972 to come to this Court for challenging the validity of the notification issued in 1959 on the ground that the particulars of the public purpose were not specified. A valid notification under Section 4 is a sine qua non for initiation of proceedings for acquisition of property. To have sat on the fence and allowed the Government to complete the acquisition proceedings on the basis that the notification under Section 4 and the declaration under Section 6 were valid and then to attack the notification on grounds which were available to them at the time when the notification was published would be putting a premium on dilatory tactics. The writ petitions are liable to be dismissed on the ground of laches and delay on the part of the petitioners (see Tilokchand Motichand v. H.B. Munshi, (1969) 2 SCR

824 and Rabindranath Bose v. Union of India, (1970) 2
SCR 697)."

24. Similar is the effect of the decision of the Supreme Court in the matter of State of Mysore v. V.K. Kangan⁵ in which the Supreme Court has held that Section 4 notification should be challenged within reasonable time of its publication, unreasonable delay in filing writ petition dis-entitles the petitioner to relief. Delay in filing the writ petition of two years was held to be fatal.

25. Similar is the effect of judgments of the Supreme Court in the matters of Indrapuri Griha Nirman Sahakari Samiti Ltd. v. The State of Rajasthan and others⁶, Municipal Corporation of Greater Bombay v. I.D.I. Co. Pvt. Ltd. and others ⁷, Ramjas Foundation and others v. Union of India and others ⁸ and Larsen & Toubro Ltd. v. State of Gujarat and others⁹. In all

5 AIR 1975 SC 2190

6 (1975) 4 SCC 296

7 (1996) 11 SCC 501

8 1993 Supp (2) SCC 20

9 (1998) 4 SCC 387

W.P. (C) No. 3076/2016
and other connected matters

Page 42 of 64

these decisions, the Supreme Court has clearly held that in order to succeed in a challenge to the acquisition proceedings, the interested person must remain vigilant and watchful. If instead of doing so, the interested person allows grass to grow under his feet, he cannot invoke the powers of judicial review exercisable under Article 226 of the Constitution.

26. In the matter of State of Maharashtra v. Digambar¹⁰, the Supreme Court has recorded a note of caution that the power of the High

Court under Article 226 of the Constitution is discretionary and it must be exercised judiciously and reasonably so much so that such power, if exercised admits of no controversy and while exercising discretion, the Court must be fully satisfied that there exists no laches nor undue delay in approaching the Court. In paragraph 14, Their Lordships observed as under: -

"... the High Court before granting such relief is required to satisfy itself that the delay or laches on the part of a citizen or any such person in approaching for relief under Article 226 of the Constitution on the alleged violation of his legal right, was wholly justified in the facts and circumstances, instead of ignoring the same or leniently considering it. Thus, in our view, persons seeking relief against the State under Article 226 of the Constitution, be they citizens or otherwise, cannot get discretionary relief obtainable thereunder unless they fully satisfy the High Court that the facts and circumstances of the case clearly justified the laches or undue delay on their part in approaching the Court for grant of such discretionary relief....."

27. Similar effect is to the decisions in the matters of State of Orissa v. Dhobei Sethi and another¹⁰ and State of Rajasthan and

¹⁰ (1995) 4 SCC 683
¹¹ (1995) 5 SCC 583

W.P. (C) No. 3076/2016
and other connected matters

Page 43 of 64

others v. D.R. Laxmi and others¹².

28. In the matter of Andhra Pradesh Industrial Infrastructure

Corporation Limited v. Chinthamaneni Narsimha Rao and

others¹³, the Supreme Court has allowed the appeal by dismissing the challenge of the landowners on the ground of delay and noticed the earlier decisions. Paragraphs 13, 14, 15 and 16 of the report

read as follows: -

"13. This Court has held in several judgments that if the land owners are aggrieved by the acquisition proceedings, they must challenge the same at least before an award is made and the possession of the land in question is taken by the government authorities.

14. It has been held in *Swaika Properties (P) Ltd. & Another vs. State of Rajasthan & Others* [(2008) 4 SCC 695] as under:

"16. This Court has repeatedly held that a writ petition challenging the notification for acquisition of land, if filed after the possession having been taken, is not maintainable. In *Municipal Corpn. of Greater Bombay v. Industrial Development Investment Co. (P) Ltd.* (1996) 11 SCC 501 where K. Ramaswamy, J. speaking for a Bench consisting of His Lordship and S.B. Majumdar, J.

held: (SCC p. 520, para 29) "29. It is thus well-settled law that when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the Court should be loath to quash the notifications. The High Court has, no doubt, discretionary powers under Article 226 of the Constitution to quash the notification under Section 4(1) and declaration under Section 6. But it should be exercised taking all relevant factors into pragmatic consideration. When the award was passed and possession was taken, the Court should not have exercised its power to quash the award which is a material factor to be taken into consideration 12 (1996) 6 SCC 445 13 (2012) 12 SCC 797 W.P.(C)No.3076/2016 and other connected matters before exercising the power under Article 226. The fact that no third-party rights were created in the case is hardly a ground for interference. The Division Bench of the High Court was not right in interfering with the discretion exercised by the learned Single Judge dismissing the writ petition on the ground of laches."

15. Similarly, in the case of *State of Rajasthan & Ors. v. D.R. Laxmi & Ors.* [(1996) 6 SCC 445] following the decision of this Court in the case of *Municipal Corporation of Greater Bombay* (supra) it was held :

"29. When the award was passed and possession was taken, the Court should not have exercised its power to quash the award which is a material factor to be taken into consideration before exercising the power under Article 226. The fact that no third party rights were created in the case, is hardly a ground for interference. The Division Bench of the High Court was not right in interfering with the discretion exercised by the learned Single Judge dismissing the writ petition on the ground of laches. "

16. To the similar effect is the judgment of this Court in *Municipal Council, Ahmednagar & Another vs. Shah Hyder Beig & Ors.* [(2000) 2 SCC 48] wherein this Court, following the decision of this

Court in *C. Padma and Others v. Dy. Secy. to the Govt. of T.N. and Others* [(1997)2 SCC 627] held: (Shah Hyder case SCC p. 55, para 17) "17. In any event, after the award is passed no writ petition can be filed challenging the acquisition notice or against any proceeding thereunder. This has been the consistent view taken by this Court and in one of the recent cases (*C. Padma v. Dy. Secy. to the Govt. of T.N.* [(1997) 2 SCC 627] ..."

29. Very pertinently and appropriately, the Supreme Court in the matter of *Chennai Metropolitan Water Supply and Sewerage Board and others v. T.T. Murali Babu*¹⁴, qua delay, observed as under: -

"17. A court is not expected to give indulgence to such indolent persons - who compete with 14 (2014) 4 SCC 108 W.P.(C)No.3076/2016 and other connected matters "Kumbhakarna" or for that matter "Rip Van Winkle". In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."

30. Recently, in the matter of *State of Haryana v. Devendra Sagar* ¹⁵, the Supreme Court has reiterated that delay in challenging land acquisition proceeding is fatal.

31. Thus, the legal proposition flowing from the aforesaid decisions with regard to entertaining writ petition in land acquisition is that petitioner who knocks the door of the court with delay must establish strong, exceptional and extraordinary ground to come out from the clutches of delay so as to call the court to step-up for consideration of the case on merits by taking a departure from the well settled principles of law as mentioned supra, but in this case, the petitioners have miserably failed to explain the inordinate delay of ten years by declaring in para 7 of the writ petitions that there is no delay in filing the writ petition.

32. In the considered opinion of this Court, the writ petitions deserve to be dismissed on the ground of delay and laches alone so far as the land acquisition is concerned.

33. This would take me to the next limb of submission raised on behalf of the State/respondents No.3 and 4 that the petitioners at the one hand challenge the acquisition as unsustainable and bad in law whereas, on the other hand, claim that compensation be enhanced and the respondents be directed to consider their case for 15 (2016) 14 SCC 746 W.P.(C)No.3076/2016 and other connected matters rehabilitation and resettlement as per law. The question is whether the petitioners can be allowed to take repugnant, inconsistent and contradictory plea in this regard in challenging the acquisition.

34. There is a maxim known as "qui approbat non reprobatur", meaning thereby one who approbates cannot reprobate. The doctrine of "approbate and reprobate" is only a species of estoppel, it applied only to the conduct of parties. Law does not permit a person to both approbate and reprobate. The doctrine of estoppel by election is one of the species of estoppel in pais (or equitable estoppel) which is a rule in equity. By that rule, a person may be precluded by his actions or conduct or silence when it is his duty to speak, from asserting a right which he otherwise would have had. No inconsistent stand can be taken in the Court of law.

35. The doctrine of Election is based on rule of estoppel-The principle that one cannot approbate and reprobate inheres in it. Further the parties cannot blow hot and cold by taking inconsistent stands and prolong proceedings unnecessarily [Vide Babu Ram v. Indra Pal Singh¹⁶].

36. The principle of "approbate and reprobate" has been described as species of estoppel which seems to be intermediate between estoppel by record and estoppel in pais (See Halsbury' Laws of England, para 512, Volume XII, page 454).

37. The doctrine of election is based on the principle that the parties cannot, after taking advantage under an order, be heard to say that 16 (1998) 6 SCC 358 W.P.(C)No.3076/2016 and other connected matters it is invalid and ask to set it aside, or to set up to the prejudice of persons who have relied upon it. The Supreme Court in the matter of Nagubai Ammal and others v. B. Shama Rao and others¹⁷ relied upon English case and held as under:-

The observations of Scrutton, L.J. are as follows:

"A plaintiff is not permitted to 'approbate and reprobate'. The phrase is apparently borrowed from the Scotch law, where it is used to express the principle embodied in our doctrine of election-namely, that no party can accept and reject the same instrument: Ker v. Wauchope (1819) 1 Blight 1 (21) (E): Douglas-Menzies v. Umphelby 1908 AC 224 (232) (F). The doctrine of election is not however confined to instruments. A person cannot say at one time that a transaction is valid and thereby obtain some advantage, to which he could only be entitled on the footing that it is valid, and then turn round and say it is void for the purpose of securing some other advantage. That is to approbate and reprobate the transaction."

It is clear from the above observations that the maxim that a person cannot 'approbate and reprobate' is only one application of the doctrine of election, and that its operation must be confined to reliefs claimed in respect of the same transaction and to the persons who are parties thereto. The law is thus stated in Halsbury's Laws of England, Volume XIII, page 454, para 512 :

"On the principle that a person may not approbate and reprobate, a species of estoppel has arisen which seems to be intermediate between estoppel by record and estoppel in pais, and may conveniently be referred to here. Thus a party cannot, after taking advantage under an order (e.g. payment of costs), be heard to say that it is invalid and ask to set it aside, or to set up to the prejudice of persons who have relied upon it a case inconsistent with that upon which it was founded; nor will he be allowed to go behind an order made in ignorance of the true facts to the prejudice of third parties who have acted on it."

¹⁷ AIR 1956 SC 593 W.P.(C)No.3076/2016 and other connected matters

38. Similarly, in the matter of C. Beepathuma v. Velasari Shankarnarayana Kadambolithaya¹⁸, Their Lordships of the Supreme Court have held that a person cannot approbate and reprobate the same transaction. Paragraphs 17 and 18 of the report state as under :-

"17. The doctrine of election which has been applied in this case is well-settled and may be stated in the classic words of Maitland-

"That he who accepts a benefit under a deed or will or other instrument must adopt the whole contents of that instrument, must conform to all its provisions and renounce all rights that are inconsistent with it."

(See Maitland's lectures on Equity Lecture 18) The same principle is stated in White and Tudor's Leading cases in Equity Vol. 18 Th Edn, at n. 444 as follows:

"Election is the obligation imposed upon a party by courts of equity to choose between two inconsistent or alternative rights or claims in cases where there is clear intention of the person from whom he derives one that he should not enjoy both. That he who accepts a benefit under a deed or will must adopt the whole contents of the instrument."

18. The Indian courts have applied this doctrine in several cases and a reference to all of them is hardly necessary. We may, however, refer to a decision of the Madras High Court in Ramakottayya v. Viraraghavayya, ILR 52 Mad 567: (AIR 1929 Mad 502 FB) where after referring to the passage quoted by us from White and Tudor, courts Trotter, G.J. observed that the principle is often put in another form that a person cannot approbate and reprobate the same transaction and he referred to the decision of the Judicial committee in Rangaswami Gounden v.

Nachiappa Gounden, ILR 42 Mad 523: (AIR 1918 PC

196). Recently, this court has also considered the doctrine in Bhau Ram v. Baij Nath Singh, AIR 1961 SC 18 AIR 1965 SC 241(1) W.P.(C)No.3076/2016 and other connected matters 1327."

39. Similar is the effect of the decision of the Supreme Court in the matter of Commissioner of Income Tax, Madras v. MR. P. Firm Muar¹⁹, in which Their Lordships of the Supreme Court have explained the doctrine of "approbate and reprobate" and it has been held as under:-

"The doctrine of "approbate and reprobate" is only a species of estoppel, it applies only to the conduct of parties."

40. In the matter of R.N. Gosian v. Yashpal Dhir²⁰, the Supreme Court observed similarly as under:-

"10. Law does not permit a person to both approbate and reprobate. This principle is based on the doctrine of election which postulates that no party can accept and reject the same instrument and that "a person cannot say at one time that a transaction is valid and thereby obtain some advantage, to which he could only be entitled on the footing that it is valid, and then turn round and say it is void for the purpose of securing some other advantage."

41. In the matter of Rajasthan State Industrial Development & Investment Corpn. v. Diamond & Gem Development Corpn. Ltd.²¹ explaining the meaning of "approbate and reprobate", it has been held as under:-

"15. A party cannot be permitted to "blow hot blow cold", "fast and loose" or "approbate and reprobate". Where one knowingly accepts the benefits of a contract, or conveyance, or of an order, he is estopped from denying the validity of, or the binding effect of such contract, or conveyance, or order upon himself.

Thus rule is applied to ensure equity, however, it must not be applied in such a manner so as to violate the 19 AIR 1965 SC 1216 20 (1992) 4 SCC 683 21 (2013) 5 SCC 470 W.P.(C)No.3076/2016 and other connected matters principles of what is right and of good conscience [Vide Nagubai Ammal v. B. Shama Rao (supra), CIT v. V. MR. P. Firm Muar (supra), Ramesh Chandra Sankla v. Vikram Cement²², Pradeep Oil Corpn. v. MCD²³, Cauvery Coffee Traders v. Hornor Resources (International) Co. Ltd.²⁴ and V. Chandrasekaran v. Administrative Officer²⁵.]

16. Thus, it is evident that the doctrine of election is based on the rule of estoppel-the principle that one cannot approbate and reprobate is inherent in it. The doctrine of estoppel by election is one among the species of estoppels in pais (or equitable estoppel), which is a rule of equity. By this law, a person may be precluded, by way of his actions, or conduct, or silence when it is his duty to speak, from asserting a right which he would have otherwise had."

42. Finally, in the matter of State of Punjab v. Dhanjit Singh Sandhu²⁶, it has been held by the Supreme Court in no uncertain terms that a party complying and deriving advantage from the order, cannot challenge it on any ground and concluded as under: -

"22. The doctrine of "approbate and reprobate" is only a species of estoppel, it implies only to the conduct of parties. As in the case of estoppel it cannot operate against the provisions of a statute [Vide CIT v. V. MR. P. Firm Muar (supra)].

23. It is settled proposition of law that once an order has been passed, it is complied with, accepted by the other party and derived the benefit out of it, he cannot challenge it on any ground (Vide Maharashtra SRTC v. Balwant Regular Motor Service²⁷.) In R.N. Gosain v.

Yashpal Dhir (supra), this Court has observed as under: (SCC pp. 687-88, para 10) "10. Law does not permit a person to both approbate and reprobate. This principle is based on the doctrine of

election which postulates that no party can accept and reject the same 22 (2008) 14 SCC 58 23 (2011) 5 SCC 270 24 (2011) 10 SCC 420 25 (2012) 12 SCC 133 26 (2014) 15 SCC 144 27 AIR 1969 SC 329 W.P.(C)No.3076/2016 and other connected matters instrument and that 'a person cannot say at one time that a transaction is valid and thereby obtain some advantage, to which he could only be entitled on the footing that it is valid, and then turn round and say it is void for the purpose of securing some other advantage.

26. It is evident that the doctrine of election is based on the rule of estoppel, the principle that one cannot approbate and reprobate is inherent in it. The doctrine of estoppel by election is one among the species of estoppel in pais (or equitable estoppel), which is a rule of equity. By this law, a person may be precluded, by way of his actions, or conduct, or silence when it is his duty to speak, from asserting a right which he would have otherwise had."

43. In the matter of V. Chandrasekaran v. Administrative Officer (supra), the Supreme Court has disapproved the inconsistent and contradictory plea raised by the petitioners therein. In that case, on the one hand the relief with regard to declaration to the effect that acquisition proceeding in pursuance to the notification of Section 4 had lapsed or were void was claimed, whereas on the other hand, the petitioner also claimed re-conveyance of the said land. In para 38 of the judgment, Their Lordships clearly held that both the pleas are inconsistent and contradictory and could not co-exist. Paragraphs 38 and 39 of the report read as under: -

"38. It is evident from the relief clauses of the two writ petitions filed by the appellants, that the reliefs sought by them are mutually inconsistent and contradictory. In the event that the appellants wanted a declaration to the effect that the acquisition proceedings in pursuance of issuance of the Section 4 notification dated 15.5.1978 had lapsed or were void, the question of seeking re-conveyance of the said land could not arise. More so, it is difficult to understand, how the appellants can claim relief in respect of 9 survey numbers. In the present appeals, relief is restricted only to 4 of the survey numbers. Dr. A.M. Singhvi has not pressed for the relief of re-conveyance. However, it is apparent W.P.(C)No.3076/2016 and other connected matters that the appellants' claim cannot co-exist and can be said to be blowing hot and blowing cold, simultaneously.

39. In Cauvery Coffee Traders, Mangalore v. Hornor Resources (International) Company Limited, (2011) 10 SCC 420, this Court considered a large number of judgments on the issue of estoppels and held as under:

"34. A party cannot be permitted to "blow hot and cold", "fast and loose" or "approbate and reprobate". Where one knowingly accepts the benefits of a contract or conveyance or an order, is estopped to deny the validity or binding effect on him of such contract or conveyance or order. This rule is applied to do equity, however, it must not be applied in a manner as to violate the principles of right and good conscience.

35. The doctrine of estoppel by election is one of the species of estoppels in pais (or equitable estoppel), which is a rule in equity. By that law, a person may be precluded by his actions or conduct or silence when it is his duty to speak, from asserting a right which he otherwise would have had.""

44. In view of aforesaid discussion and having thus, noticed the doctrine of election, now, I would advert to the factual matrix of the case.

45. The petitioners candidly in paragraphs 10(i) to 10(iii) of the petition have claimed following reliefs: -

"(i) That, this Hon'ble Court may kindly be pleased to call for the entire records pertaining to the Land Acquisition Case No.10A/82/2004-2005, in Village Budbud, Tahsil Pali, Distt. Korba.

(ii) That, this Hon'ble Court may be pleased to quash the entire Land Acquisition proceedings in Land Acquisition Case No.10A/82/2004-2005 in Village Budbud, Tahsil Pali, Distt. Korba.

(iii) That, this Hon'ble Court may kindly be pleased to quash the award dated 6/9/2007 (Annexure P/1), passed in Land Acquisition Case No.10A/82/2004-

W.P.(C)No.3076/2016 and other connected matters 2005 in Village Budbud, Tahsil Pali, Distt. Korba with condition to pay back the part amount already paid to the petitioner."

Thereafter, stating "Alternatively", the petitioners claimed reliefs 10

(iv) to (viii) as under: -

"(iv) This Hon'ble Court may kindly be pleased to direct the respondents to recalculate the compensation amount;

(i) as per the new Land Acquisition Act of 2013,

(ii) as per the revised rate announced by the State Government on 19/3/2010, and pay the difference of compensation amount to the petitioner.

(v) That, this Hon'ble Court may kindly be pleased to direct the respondents to pay 1% interest per month to the petitioner from the date the revised rate of compensation came into effect, i.e. 19/3/2010, till the actual physical possession of land is taken.

(vi) That, this Hon'ble Court may kindly be pleased to issue appropriate writ or direction, directing the respondents to frame a proper rehabilitation plan and implement it and extend other rehabilitation benefits also as per the CG Model Rehabilitation Policy 2007 along with M.P. Rehabilitation Policy 1991.

(vii) That, this Hon'ble Court may kindly be pleased to direct the respondents to provide salary, until regular employment is provided as per Clause 11 of the Model Rehabilitation Policy 2007, along with arrears.

(viii) That, this Hon'ble Court may kindly be pleased to direct the respondents to extend resettlement benefits to the petitioner as per Chhattisgarh Model Rehabilitation Policy 2007, along with M.P. Rehabilitation Policy 1991."

46. The petitioners at the first three reliefs claimed the relief of nullifying the acquisition on different grounds stated therein and raised in the writ petitions, whereas claiming the relief of enhanced W.P.(C)No.3076/2016 and other connected matters compensation with interest and rehabilitation to be alternatively have claimed other sets of reliefs. The petitioners having claimed acquisition to be bad in law on the permissible grounds cannot be allowed to revert back and claim the relief of enhanced compensation and rehabilitation at the same breath. It is clearly hit by the doctrine of election, as the petitioners cannot be allowed to take contradictory and mutually destructive plea to each other. Therefore, once the petitioners having accepted the compensation and after giving possession cannot be allowed to take a plea that the acquisition is bad in law, which is hit by delay and laches as well. Thus, challenge to the land acquisition proceeding is also hit by the rule of estoppel. The doctrine of election is based on the rule of estoppel. Therefore, the petitioners cannot be allowed to challenge the land acquisition proceeding on this ground also.

47. At this stage, it would be appropriate to notice the judgment of the Supreme Court in the matter of Ramniklal N. Bhutta v. State of Maharashtra²⁸, in which while delineating the scope of interference in land acquisition proceeding, Their Lordships held as under: -

"10. Whatever may have been the practices in the past, a time has come where the courts should keep the larger public interest in mind while exercising their power of granting stay/injunction. The power under Article 226 is discretionary. It will be exercised only in furtherance of interests of justice and not merely on the making out of a legal point. And in the matter of land acquisition for public purposes, the interests of justice and the public interest coalesce. They are very often one and the same. Even in a civil suit, granting of injunction or other similar orders, more particularly of an interlocutory nature, is equally discretionary. The 28 (1997) 1 SCC 134 W.P.(C)No.3076/2016 and other connected matters courts have to weigh the public interest vis-a-vis the private interest while exercising the power under Article 226 - indeed any of their discretionary powers. It may even be open to the High Court to direct, in case it finds finally that the acquisition was vitiated on account of non-compliance with some legal requirement that the person interested shall also be entitled to a particular amount of damages to be awarded as a lump sum or calculated

at a certain percentage of compensation payable. There are many ways of affording appropriate relief and redressing a wrong; quashing the acquisition proceedings is not the only mode of redress. To wit, it is ultimately a matter of balancing the competing interests. Beyond this, it is neither possible nor advisable to say. We hope and trust that these considerations will be duly borne in mind by the courts while dealing with challenges to acquisition proceedings."

48. The principle of law laid down in *Ramnikal N. Bhutta* (supra) has been followed with approval by the Supreme Court in the matter of *Girias Investment Private Limited and another v. State of Karnataka and others*²⁹ and it was held that though rights of an individual whose property is sought to be acquired must be scrupulously respected, an acquisition for the benefit of public at large is not to be lightly quashed and extraordinary reasons must exist for doing so.

49. Thus, even otherwise, the petitioners have failed to make out an extraordinary case for making interference in the land acquisition proceeding, as all of them (only 53 out of 811 land oustees) have accepted compensation long back prior to the institution of suit and only making representations for rehabilitation. Therefore, taking into account the public purpose for which the lands were acquired that is *e x cavation of coal/mining of coal*, I do not find any 29 (2008) 7 SCC 53 W.P.(C)No.3076/2016 and other connected matters exceptional ground to quash the acquisition proceeding, rather quashing of land acquisition will be against public interest and public purpose.

50. This would take me to the issue of higher compensation claimed by the writ petitioners. The petitioners have accepted the compensation way back on 12-3-2013. They did not make any application under Section 18 of the Land Acquisition Act, 1894 to the Collector for referring the matter to the competent court for enhancement of the amount under compensation. The second proviso to Section 31 (2) of the Land Acquisition Act, 1894 provides that "no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18".

51. In this regard, the decision of the Supreme Court in the matter of *Ashwani Kumar Dhingra v. State of Punjab* 30 may be noticed herein gainfully, wherein Their Lordships have held that right to make reference is not affected when compensation amount is accepted under protest. Their Lordships have succinctly observed in paragraph 10 of the report as under: -

"10. The acceptance of compensation under protest was not done by the appellant with a view to safeguard his right to challenge the acquisition itself but to safeguard his right to require the matter being referred by the Collector for determination of the Court in relation to the matters mentioned in Section 18 of the Land Acquisition Act. It is clear from the provisions of Section 18 of the Land Acquisition Act that the person interested, in order to enable him to seek the remedy of reference can do so only if he does not accept the award. In order to show that the person concerned had not accepted the award the claimants accept the 30 AIR 1992 SC 974 W.P.(C)No.3076/2016 and other connected matters compensation only under protest because once the compensation awarded in pursuance of the award is accepted

without protest the person concerned may lose his right to a reference for various matters mentioned in Section 18 of the Land Acquisition Act."

52. In the matter of Land Acquisition Officer v. Shivabai and others³¹, the Supreme Court has again held that the claimants, who receive the compensation under protest and who make application under Section 18(1), alone are entitled to seek reference. Therefore, it is implied that who has received the compensation without protest cannot be held entitled to raise any objection before the Court of reference. One cannot take two advantages when the law is explicit that reference cannot be maintainable when the claimant/s received the compensation without protest and demur.

53. Thus, the petitioners having accepted the compensation without any protest and having not made reference under Section 18 of the Act now, cannot approach the writ court competently and claim that they are entitled for higher and enhanced amount of compensation under some provision of law. The Land Acquisition Act is a complete Code. In order to take benefit under the Land Acquisition Act, they have to strictly follow the procedure laid down in this regard to get enhanced compensation. The period of limitation is also provided under Section 18 of the Act. For raising a reference under Section 18, the period of limitation having been expired, the writ petitioners are not entitled even to make reference, therefore, they are debarred from claiming any enhanced compensation by 31 AIR 1997 SC 2642 W.P.(C)No.3076/2016 and other connected matters way of these writ petitions. Challenge in this behalf deserves to be and is hereby rejected.

54. This brings me finally to the issue of rehabilitation. The petitioners' claim is that they are entitled for rehabilitation benefits under the M.P. Rehabilitation Policy, 1991 and the Chhattisgarh Model Rehabilitation Policy, 2007, and they are also entitled for salary until regular employment is provided as per clause 11 of the Chhattisgarh Model Rehabilitation Policy, 2007, whereas it is the case of the SECL that the petitioners will be entitled for rehabilitation under the Rehabilitation Policy of 2012 issued by the Coal India Limited.

55. It is not in dispute that the land in question was acquired in the year 2007, possession was taken in the year 2010 and thereafter, compensation has been paid in 2013. It is well settled that the policy in force on the date of acquisition will be the relevant date for grant of rehabilitation, subsequent change in policy would not affect their claim of rehabilitation.

56. In W.P.(S)No.432/2011 (Ku. Rattho Bai and another v. South Eastern Coalfields Limited and others) decided by a coordinate Bench of this Court on 23-7-2015, it was clearly held that the policy issued by the State has statutory backing in terms of Article 166 of the Constitution of India. Thus, the rehabilitation policy issued by the State Government would prevail over the policy of the SECL.

57. The Supreme Court in the matter of State of Haryana v.

W.P.(C)No.3076/2016 and other connected matters Mahender Singh and others³² has held in para 39 that it is now well settled that any guidelines which do not have any statutory flavour are merely advisory in nature. They cannot have the force of a statute. They are subservient to the legislative Act and the statutory rules.

58. The word 'rehabilitation' has been defined in Black's Law Dictionary (Sixth Edition). It means, "investing or clothing again with some right, authority, or dignity. Restoring person or thing to a former capacity, reinstating, qualifying again. Restoration of an individual to his greatest potential, whether physically, mentally, socially, or vocationally."

59. The Supreme Court has occasion to define the meaning of rehabilitation in its judgments. Some of them may be noticed herein usefully and profitably.

60. Way back in the year 1986, in the matter of The Collector of 24 Parganas and others v. Lalit Mohan Mullick and others 33 while defining the meaning of "rehabilitation", the Supreme Court highlighting the object of rehabilitation observed as under: -

"13. In Collins Dictionary of the English Language, the meaning for the word 'rehabilitate' is given as "to help a person (who is physically or mentally disabled or has just been released from prison) to readapt to society or a new job as by vocational guidance, retraining or thereby. ". By rehabilitation what is meant is not to provide shelter alone. The real purpose of rehabilitation can be achieved only if those who are sought to be rehabilitated are provided with shelter, food and other necessary amenities of life. It would be 32 (2007) 13 SCC 606 33 AIR 1986 SC 622 W.P.(C)No.3076/2016 and other connected matters too much to contend, much less to accept, that providing medical facilities would not come within the concept of the word 'rehabilitation'. "

61. In the matter of Narmada Bachao Andolan v. Union of India 34, the Supreme Court noticed that displacement of people living on the proposed project sites and the areas to be submerged is an important issue and a properly drafted R&R plan would improve the living standards of displaced persons after displacement, and held as under in paragraph 241: -

"241. Displacement of people living on the proposed project sites and the areas to be submerged is an important issue. Most of the hydrology projects are located in remote and inaccessible areas, where local population is, like in the present case, either illiterate or having marginal means of employment and the per capita income of the families is low. It is a fact that people are displaced by projects from their ancestral homes. Displacement of these people would undoubtedly disconnect them from their past, culture, custom and traditions, but then it becomes necessary to harvest a river for the larger good. A natural river is not only meant for the people close by but it should be for the benefit of those who can make use of it, being away from it or near by. Realising the fact that displacement of these people would disconnect them from their past, culture, custom and traditions, the moment any village is earmarked for takeover for dam or any other developmental activity, the project- implementing authorities have to implement R&R programmes. The R&R plans are required to be specially drafted and implemented to mitigate problems whatsoever relating to all, whether rich or poor, landowner or encroacher, farmer or tenant, employee or employer, tribal or non-tribal. A properly drafted R&R plan

would improve the living standards of displaced persons after displacement."

62. Similar is the decision rendered by the Supreme Court in the matter of N.D. Jayal and another v. Union of India and others 35 in which 34 (2000) 10 SCC 664 35 (2004) 9 SCC 362 W.P.(C)No.3076/2016 and other connected matters Their Lordships have held that the land oustees have a right under Article 21 of the Constitution of India to lead a decent life and earn livelihood in the rehabilitated locations, and further held that rehabilitation of the land oustees is a logical corollary of Article 21. Paragraph 60 of the report reads as follows: -

"60. Rehabilitation is not only about providing just food, clothes or shelter. It is also about extending support to rebuild livelihood by ensuring necessary amenities of life. Rehabilitation of the oustees is a logical corollary of Article 21. The oustees should be in a better position to lead a decent life and earn livelihood in the rehabilitated locations. Thus observed this Court in Narmada Bachao Andolan case (2000) 10 SCC 664). The overarching projected benefits from the dam should not be counted as an alibi to deprive the fundamental rights of oustees. They should be rehabilitated as soon as they are uprooted. And none of them should be allowed to wait for rehabilitation. Rehabilitation should take place before six months of submergence. Such a time-limit was fixed by this Court in B.D. Sharma v. Union of India 1992 Supp (3) SCC 93 and this was reiterated in Narmada. This prior rehabilitation will create a sense of confidence among the oustees and they will be in a better position to start their life by acclimatizing themselves with the new environment."

63. Likewise, in the matter of State of Madhya Pradesh v. Narmada Bachao Andolan and another³⁶, the Supreme Court has clearly held that the land oustees are entitled to resettlement and rehabilitation as per the policy framed for the oustees of the project concerned and observed as under: -

"Thus, from the above referred judgments, it is evident that acquisition of land does not violate any constitutional/fundamental right of the displaced persons. However, they are entitled to resettlement and rehabilitation as per the policy framed for the oustees of the project concerned."

36 (2011) 7 SCC 639 W.P.(C)No.3076/2016 and other connected matters

64. The member of the affected family is entitled for resettlement and rehabilitation as per the policy framed in that behalf by the Government and as such, the policy framed for rehabilitation of a land oustee must be just, fair, reasonable and consistent with the provisions of the Constitution of India, particularly Articles 14 and

15.

65. Right of the land losers to get employment as per the rehabilitation policy is extremely important right and that has to be considered in accordance with law and in accordance with the

policy in force on the date of acquisition of their land and subsequent change in policy will not take away their accrued right, if any, that has accrued to them by acquisition of their lands. Thus, the benefit of rehabilitation and employment to land oustee is logical corollary of Article 21 of the Constitution of India and denial of employment is violative of Articles 14 and 15 of the Constitution of India as well as Article 21. Therefore, the respondents are directed to consider the case of the petitioners for rehabilitation / employment strictly in accordance with the policy applicable on the date of acquisition of their land i.e. the date of acquisition and such consideration should be made by SECL within 45 days from the date of production of a copy of this order.

66. As a fallout and consequence of above-stated legal analysis, it is directed as follows: -

1. Part of the writ petitions challenging the land acquisition award and the land acquisition proceedings of the petitioners' land is W.P.(C)No.3076/2016 and other connected matters dismissed on the ground of delay and laches as well as on the ground that the petitioners are not entitled to take mutually inconsistent and destructive plea based on the doctrine of election. The petitioners are not entitled for the benefit of Section 24 (2) of the Act of 2013.

2. The petitioners are not entitled for calculation of enhanced compensation as per the new Land Acquisition Act of 2013 or as per the revised rate announced by the Government on 19-3- 2010.

3. The petitioners are entitled for consideration of rehabilitation as per the policy prevalent on the date of acquisition of their land within 45 days from the date of production of a copy of this order. In consequence, the writ petitions are allowed in part only qua the rehabilitation.

67. The writ petitions are partly allowed to the extent sketched herein- above leaving the parties to bear their own costs.

Sd/-

(Sanjay K. Agrawal) Judge Soma W.P.(C)No.3076/2016 and other connected matters HIGH COURT OF CHHATTISGARH, BILASPUR Writ Petition (C) No.3076 of 2016 Pyarelal

- Versus -

South Eastern Coalfields Ltd. and others and other connected matters AND Writ Petition (C) No.3219 of 2016 Itwar Sonwani

- Versus -

South Eastern Coalfields Ltd. and others and other connected matters HEAD NOTE The benefit of rehabilitation and employment to land oustee is logical corollary of Article 21 of the Constitution of India and denial of employment is violative of Articles 14 and 15 of the Constitution of India as well as Article 21.

HkwfoLFkkfirksa dks iquokZl rFkk jkstxkj dk ykHk Hkkjr ds lafo/kku ds vuqPNsn 21 dk rkfdZd mifl)kUr gS rFkk jkstxkj $\frac{1}{4}$ nsus $\frac{1}{2}$ ls budkj Hkkjr ds lafo/kku ds vuqPNsn 14 rFkk 15] lkFk gh lkFk vuqPNsn 21 dk mYya?ku djus okyk gSA