

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 20TH DAY OF MAY 2015/30TH VAISAKHA, 1937

WP(C).No. 25679 of 2008 (F)

PETITIONER(S):

1. V.RAJEEV, "UTHAMAM", L.93, LIC LANE,
PATTOM, THIRUVANANTHAPURAM - 695 004.
2. V.SANJAY, "UTHAMAM", L.93, LIC LANE, PATTOM,
THIRUVANANTHAPURAM- 695 004.
REPRESENTED BY POWER OF ATTORNEY
HOLDER SRI. V.RAJEEV, "UTHAMAM" L.93, LIC LANE,
PATTOM, THIRUVANANTHAPURAM - 695 004.
3. M.K.VIDYADHARAN, "UTHAMAM", L.93, LIC LANE,
PATTOM, THIRUVANANTHAPURAM - 695 004.
4. M.K.RADHA DEVI VIDYADHARAN, "UTHAMAM",
L 93, LIC LANE, PATTOM, THIRUVANANTHAPURA - 695 004.

BY SRI.N.N.SUGUNAPALAN (SENIOR ADVOCATE)
ADVS.SRI.S.M.PREM
SMT.K.P.SANTHI
SRI.P.RAMACHANDRAN (PALAKKAD)
SRI.S.S.HUSSAIN
SRI.P.K.NIJOY

RESPONDENT(S):

1. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM.
2. SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.
3. THE SPECIAL TAHSILDAR (LAND ACQUISITION)
SREE PANDARAVAKA LANDS, NO.III, CHENTHITTA,
THIRUVANANTHAPURAM.

WP(C).No. 25679 of 2008 (F)

4. KERALA STATE INDUSTRIAL DEVELOPMENT
CORPORATION LIMITED, KESTON ROAD, KAUDIAR,
THIRUVANANTHAPURAM - 695 003,
REPRESENTED BY ITS MANAGING DIRECTOR.

5. UNION OF INDIA,
REPRESENTED BY THE SECRETARY,
MINISTRY OF MINES, SASTRI BHAVAN,
NEW DELHI.

6. LAND REVENUE COMMISSIONER,
THIRUVANANTHAPURAM.

R1 TO 33 & R6 BY SENIOR GOVT. PLEADER L.ALOYSIUS THOMAS
R4 BY SRI.M.PATHROSE MATTHAI (SENIOR ADVOCATE)
R4 BY ADV. SRI.SAJI VARGHESE
SRI.K.JAJU BABU, SC
SRI.SAJI VARGHESE, SC
R5 BY ADV. SRI.N.NAGARESH, A S G

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03-03-2015, ALONG WITH WPC. 36136/2008 & CONNECTED
CASES, THE COURT ON 20-05-2015 DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 25679 of 2008 (F)

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1 :** TRUE COPY OF THE NOTIFICATION NO.L.A.345/2008 DATED 30.5.2008 ALONG WITH THE NOTICE THAT APPEARED IN THE KERALA KAUMUDI DAILY DATED 2.6.2008.
- EXT.P2 :** TRUE COPY OF THE MINING ORDER ISSUED BY GOVERNMENT FOR MINING CHINA CLAY FROM THE PETITIONERS' PROPERTY AS PER G.O.(MS)NO.145/95/ID DATED 11.9.1995.
- EXT.P3 :** TRUE COPY OF THE MINING PERMISSION GRANTED BY GOVERNMENT TO REMOVE BAUXITE FROM THE PETITIONERS' PROPERTY AS PER G.O.(MS).NO.112/2001/ID DATED 7.7.2001.
- EXT.P4 :** TRUE COPY OF G.O.(MS)NO.109/2006/ID DATED 20.11.2006 ISSUED BY THE 2ND RESPONDENT.
- EXT.P5 :** TRUE COPY OF THE RESOLUTION PASSED ON ITEM NO.B5 IN THE AGENDA OF THE MEETING OF THE BOARD OF DIRECTORS OF KSIDC.
- EXT.P6 :** TRUE COPY OF THE 2ND RESPONDENT'S LETTER NO.KSIDC/TVM/2007/3017 DATED 22.1.2007 ADDRESSED TO THE PRINCIPAL SECRETARY TO GOVERNMENT, INDUSTRIES DEPARTMENT.
- EXT.P7 :** TRUE COPY OF G.O.(MS)1551/07/ID DATED 5.12.2007 ISSUED BY THE PRINCIPAL SECRETARY TO GOVERNMENT INDUSTRIES AND COMMERCE DEPARTMENT.
- EXT.P8 :** TRUE COPY OF G.O.(RT)NO.38/2008/ID DATED 15.1.2008 ISSUED BY THE 2ND RESPONDENT GRANTING ADMINISTRATIVE SANCTION TO ACQUIRE 250 ACRES OF LAND IDENTIFIED FOR ESTABLISHING "LIFE SCIENCE PARTK" BY KSIDC.
- EXT.P9 :** TRUE COPY OF THE LETTER NO.K4-59440/07 DATED 12.2.2008 ISSUED BY THE DEPUTY COLLECTOR(LA), THIRUVANANTHAPURAM TO THE VILLAGE OFFICER, VELIOOR.
- EXT.P10 :** TRUE COPY OF THE POLICY STATEMENT ON OPPORTUNITIES IN THE POTENTIAL SECTORS IDENTIFIED BY KSIDC INCLUDING MINERALS AND CHINA CLAY BASED INDUSTRIES AS AVAILABLE IN THE WEB SITE OF KSIDC.
- EXT.P11 :** TRUE COPY OF THE DECLARATION UNDER SECTION 6(1) OF THE LAND ACQUISITION ACT, PUBLISHED IN THE KERALA KAUMUDI DAILY DATED 16.12.2009.
- EXT.P12 :** TRUE COPY OF THE PROCEEDINGS DATED 23.11.2009 OF THE LAND REVENUE COMMISSIONER REJECTING THE OBJECTIONS OF THE PETITIONER WITHOUT NOTICE AND OPPORTUNITY.
- EXT.P13 :** TRUE COPY OF THE PRESS RELEASE ISSUED ON 8.2.2010.

- EXT.P14 : TRUE COPY OF THE NEWS ITEM PUBLISHED IN THE THIRUVANANTHAPURAM EDITION TO THE HINDU DAILY DATED 9.2.2010.
- EXT.P15 : TRUE COPY OF THE NEWS ITEM PUBLISHED IN THE HINDU BUSINESS LINE, THIRUVANANTHAPURAM EDITION DATED 15.2.2010.
- EXT.P16 : TRUE COPY OF LETTER NO.L.R.C1-45189/09 DATED 12.11.2009 OF THE 6TH RESPONDENT ADDRESSED TO THE DISTRICT COLLECTOR, THIRUVANANTHAPURAM.
- EXT.P17 : TRUE COPY OF LETTER NO.K4-59440/07 DATED 19.11.2009 OF THE DISTRICT COLLECTOR, THIRUVANANTHAPURAM ADDRESSED TO GOVERNMENT.
- EXT.P18 : TRUE COPY OF LETTER NO.LA-345/08 DATED 3.11.2008 ISSUED BY THE 3RD RESPONDENT.
- EXT.P19 : TRUE COPY OF COVERING LETTER DATED 10.11.2008 OF THE 3RDRESPONDENT ADDRESSED TO THE VILLAGE OFFICER, VEILOOR VILLAGE.
- EXT.P20 : TRUE COPY OF THE REPORT OF THE VILLAGE OFFICER, VEILOOR, ADDRESSED TO THE 3RD RESPONDENT AS PER ENDORSEMENT DATED 26.11.2008.
- EXT.P21 : TRUE COPY OF THE REPORT ON THE EXPIRY OF 15 DAYS OF PUBLICATION OF NOTICE ON THE LAND, AS REQUIRED, AND FORWARDED TO THE 3RD RESPONDENT BY THE VILLAGE OFFICER, VEILOOR AS PER ENDORSEMENT DATED 26.11.2008.
- EXT.P22 : TRUE COPY OF G.O.(MS) NO.744/90/RD DATED 18.12.1990 ISSUED BY THE REVENUE (B) DEPARTMENT.
- EXT.P23 : TRUE COPY OF G.O.(MS)NO.182/2012/RD DATED 3.5.2012 ISSUED BY THE REVENUE (B) DEPARTMENT.
- EXT.P24 : TRUE COPY OF THE OBJECTION DATED 30.6.2008 FILED BY THE DEPONENT UNDER SECTION SECTION 5A(1) OF THE LAND ACQUISITION ACT, 1984 WITHIN 30 DAYS OF PUBLICATION OF EXHIBIT P1.
- EXT.P25 : TRUE COPY OF THE OBJECTION DATED 8.1.2009 FILED BY THE DEPONENT IN RESPONSE TO THE NOTICE IN FORM NO.4(A) RECEIVED ON 10.12.008.
- EXT.P26 : TRUE COPY OF THE NOTICE UNDER RULE 8(1) IN FORM NO.4(C) DATED 11.3.2009 INTIMATING THAT THE OBJECTIONS WILL BE ENQUIRED INTO BY CONDUCTING A HEARING ON 18.3.2009.
- EXT.P27 : TRUE COPY OF THE REPRESENTATION DATED 26.3.2009 SUBMITTED BY THE DEPONENT TO THE LAO.

WP(C).No. 25679 of 2008 (F)

- EXT.P28 : TRUE COPY OF THE NOTICE OF HEARING DATED 15.6.2009 RECEIVED BY THE DEPONENT.
- EXT.P29 : TRUE COPY OF THE WRITTEN OBJECTIONS SUBMITTED AT THE HEARING ON 23.6.2009 UNDER SECTION 5A(2) OF THE ACT.
- EXT.P30 : TRUE COPY OF THE REPORT OF THE LAO PURPORTED TO HAVE BEEN PREPARED AND SUBMITTED UNDER RULE 8(5) FOR DECISION OF THE GOVERNMENT IN RESPECT OF THE PROPERTIES OF THE PETITIONERS.
- EXT.P31 : TRUE COPY OF THE NOTICE ISSUED BY THE 4TH RESPONDENT INVITING TECHNICAL AND FINANCIAL BIDS FOR PREPARATION OF DPR ON THE LIFE SCIENCES PARK'FOR ANOTHER COMPANY TO BE THE PRINCIPAL.
- EXT.P32 : TRUE COPY OF THE REQUISITION MADE IN FORM NO.2 UNDER RULE 4(1) OF THE LAND ACQUISITION (KERALA) RULES, 1990 ALONG WITH COVERING LETTER DATED 10.1.2008 SIGNED BY SRI.P.H.KURIAN ON 11.1.2008 FOR KSIDC ATTACHING DETAILS OF SURVEY NUMBERS, EXTENT, DESCRIPTION AND SKETCH OF LAND TO BE ACQUIRED, PREPARED BY ONE RETIRED TAHSILDAR ON 16.1.2007, AND FORWARDED TO THE DISTRICT COLLECTOR, THIRUVANANTHAPURAM.

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.V.RAMAKRISHNA PILLAI, J

WPC Nos.25679/2008, 36136/2008,
6877/2009,16798/2009, 3011/2010,
4645/2010, 9785/2010,
26559/2010, 2706/2011,
6792/2011 and 25096/2011

Dated this the 20th day of May, 2015

JUDGMENT

The petitioners, who are the owners in possession of different properties in Veiloor Village of Thiruvananthapuram District, have approached this Court against the attempt of the State to acquire their properties for a Life Science Park proposed to be established in 250 acres of land.

2. In these writ petitions, they are challenging the notification dated 30.5.2008 under Section 4(1) of the Land Acquisition Act, the proceedings dated 23.11.2009 of the Commissioner (Land Revenue) in LR (c) No.44666/2009 rejecting the objections raised by them and the declaration dated 23.11.2009 under Section 6 of the Land Acquisition Act issued by the

Additional Commissioner of Land Revenue on various grounds like absence of public purpose, incompetency of the Land Acquisition Officer to issue the notification, the failure to issue Section 6 declaration within the time specified by the statute etc.

3. In one of the writ petitions i.e. WPC No.3011/2010, the consequential award passed also is under challenge on the ground that the award was passed after a lapse of two years after declararation.

4. By G.O.(MS) No.109/2006/ID dated 20.11.2006, the Government sanctioned the constitution of a company on the model of Cochin International Airport Limited (CIAL) for developing industrial parks. It was specified that out of the authorised capital, 100 crores would be held by the State Government and its companies like Kerala State Industrial Development Corporation (KSIDC) and Kerala Industrial Infrastructure Development Corporation (KINFRA). An amount of Rs.20 crores

was allotted in the project 2006-2007 for the purpose. The Board of Directors of KSIDC by Minutes No.4671 dated 26.12.2006 resolved to acquire land for setting up an IT Park cum Township. Thereafter, the then M.D. of KSIDC on 22.1.2007 addressed the Government for the approval for acquisition of 250 acres of land for a Life Science Park saying that the KSIDC has identified a prime property for the purpose and the Board of KSIDC has approved the proposal. The said letter also states the enclosure of the Board's resolution dated 29.12.2007. The Government by order dated 5.12.2007 granted a conditional approval in principle for the project saying that the land may be purchased at market value by negotiated purchase and that the Government would not provide any funds for the purpose of the project. The petitioners allege that in the conditional sanction order referred to above, the property proposed to be purchased for the project has not been identified. It is their further case that

there is no sanction for land acquisition as mandated under Section 4(1) of the Land Acquisition Act, 1984. This was followed by Government order dated 15.1.2008 by which 250 acres of property have been identified, and Section 4(1) notification under the Act dated 30.5.2008 for the acquisition of 250 acres. The petitioners submitted their objections to the acquisition. Later, Section-6 declaration notice was issued on 23.11.2009. Most of the petitioners allege that the properties contain deposits of high quality of china clay and this valuable mineral wealth and industrial unit would be lost on account of the proposed acquisition and KSIDC has no cogent business plan or funding mechanism or even a project report for the proposed Life Science Park. The petitioners allege that the proposed acquisition is liable to be struck down as whimsical and arbitrary.

5. Detailed counter affidavits have been filed by KSIDC as well as the State Government.

6. In the counter affidavit filed by the KSIDC, it was contended that the Government of Kerala having considered that the acquisition of 250 acres of land was required for the public purpose for the establishment of Life Science Park. KSIDC has issued a notification under Section 4(1) of the Land Acquisition Act for acquisition of the land for the public purpose and the same cannot be challenged by the petitioners in any manner. They have also denied the averment of the petitioners that the property contains some of the richest deposits of high quality china clay in the country. It was pointed out that mining of china clay does not generate employment potential or revenue or industrial production of essential products and goods in the State like other industries. It was pointed out that industries to be set up in the Life Science Park are of an essential and indispensable kind for the benefit of the public at large. It is also contended that mining of china clay at a depth of 50 feet or more is

destructive and detrimental to ecology, topography etc. It was also contended that the period of mining lease granted to the petitioners have expired and they have no subsisting legal right for mining of china clay. It was contended that the petitioners are entitled to claim compensation for the land proposed to be acquired and none of the fundamental right of the petitioners have been infringed because of the proposed acquisition. The decision of the Board of Directors held on 26.12.2006 has been altered and superseded subsequently as the set up of an IT corridor of Industrial Park and Township was found not feasible since already there is a Techno Park at Thiruvananthapuram and new Techno Cities were planned at other places in the State. Therefore, the decision of the Board of Directors dated 26.12.2006 has ceased to exist and lost its relevance. The set up of Life Science Park was considered from different angles and a joint inspection of the properties were made by the Deputy Collector (Land Acquisition) as

well as the officers of the KSIDC who found that the said site was suitable for the proposed Life Science Park. Accordingly, the District Collector submitted a report to the Government. It was on the basis of the same that the Government has shown green signal to the project. The Government have decided so after applying its mind. The objection raised by the petitioners were considered by the Commissioner of Land Revenue and were rejected. Thereafter a declaration under Section 6 of the Act has been issued. Therefore, KSIDC prayed for the dismissal of the writ petitions.

7. In the counter affidavit filed by the State, almost similar contentions were taken. It was asserted that Section 4(1) notification was issued after fulfilling the necessary formalities envisaged by the Act. It was contended that notice under Section 4B of the Act was also issued to the land holders and copies of the same were published on the notice board of the Village Office also. A total number of 50

land holders preferred an objection before the Special Tahsildar under Section 5A of the Act. Hearing was conducted on 18.3.2009, 19.3.2009 and 20.3.2009. The objectors who requested for extension of time were granted time to submit further arguments. The remarks of the requisitioning authority were also obtained. Thereafter a detailed report was prepared by the requisitioning authority and the same was sent to the Land Revenue Commissioner along with the orders for declaration. The Land Revenue Commissioner, after considering the proposal in detail, approved the declaration vide proceedings dated 23.11.2009. This was followed by Section 6 declaration on 24.11.2009. Thereafter valuation of the holdings under acquisition were carried out. The District Collector approved the basic valuation report as per proceedings dated 19.2.2010. The District Level Purchase Committee under the Chairmanship of the District Collector has decided on 23.3.2010 for fixing the land value for effecting

negotiated purchase under the Fast Track Project. Sixty four land holders attended the meeting and everyone of them claimed higher value for their land, though the committee offered 25% increase up to their claim. Hence, the committee decided to request the Government to issue necessary directions to proceed with the land acquisition formalities contemplated under the Act and the proposal is now pending before the Government. The State also would contend that there is no merit in any of the writ petitions.

8. Arguments have been heard.

9. The arguments advanced by the learned counsel for the petitioners in these writ petitions can be summed up as under:

a) There is no Government sanction for acquisition of land under the Land Acquisition Act, 1984. Even assuming that sanction is there, it is for the acquisition of 250 acres of land for Life Science Park by negotiated purchase. Therefore, in the absence of sanction of the Government to proceed

under Section 4(1) of the Act, the acquisition proceedings are without jurisdiction.

b) While granting conditional approval, the Government has not applied its mind. In the letter by the M.D. addressing the Government, what was referred to was the resolution of the Board of Directors for acquisition of land for establishing an IT project and not for a Life Science Park.

c) As the Board of KSIDC has not taken any decision to establish a Life Science Park, the subsequent ratification issued by the Board in its 259th meeting held in June 2008 has no significance at all.

d) The company conceived in the Government order dated 20.11.2006 granting conditional approval is not incorporated till date. If at all such a company is incorporated, the said company would not be a Government company under the Companies Act as the share holding of the Government would be less than 51%.

e) The KSIDC has no funds for acquiring land and implementing the project as the Government have expressly refused to fund the project.

f) The entire proceedings are vitiated by *mala fides* of the then Managing Director.

10. As already pointed out, most of the petitioners have taken the contention that their lands have deposits of high quality of china clay which is an essential ingredient in the manufacture of several products by the industries and they were having permit for mining china clay. Therefore, they would allege that the acquisition of the lands are violated the fundamental rights under Article 19(1)(g) and 21 of the Constitution of India.

11. Mr.Pathros Matthai, the learned senior counsel for KSIDC would point out that the petitioners have no manner of right in the minerals in the lands including china clay which are vested in the State. It was settled by a Division Bench of this Court in ***Shibu v Tahsildar*** (1993(2) KLT 870) that mines

and minerals in the erstwhile State of Travancore vests in the State and owners of the land have no right in the minerals in the land in that part of the State. It has to be borne in mind that the petitioners who are mining china clay are conducting mining operations on the basis of the permit granted by the Government under the Mines and Minerals (Development and Regulation) Act, 1957. The petitioners have no right of ownership in the china clay deposit in their lands.

12. The respondents have a contention that mining in the area are carried on up to the depth of 50 metres or more which is highly destructive and detrimental to ecology, environmental conditions etc. No exemption is provided in the Land Acquisition Act for industries like china clay etc.

13. The next argument advanced by the learned counsel for the petitioners is that there is a twist in the project without any decision thereof by the Board of Directors of KSIDC. Admittedly, there was a proposal

to establish an IT Park cum Township by a Public Limited Company to be promoted by the Government, KSIDC and KINFRA as notified in the Government order dated 20.11.2006 which was on the basis of the decision of the Board of Directors of the KSIDC. It is true that no company was promoted and 250 acres of land proposed for the IT Park and Township has been notified for acquisition to establish the Life Science Park by the KSIDC.

14. It was pointed out by the learned senior counsel for the respondent KSIDC as well as the learned Senior Government Pleader Mr.Aloysius Thomas that the Industrial and Commercial Policy, 2007 of the Government of Kerala provided for establishment of Life Science Park for priority industries of Pharmaceutical, Medical Devices, Bio Technology, Nano Technology and other knowledge industries. The KSIDC has been authorised to set up a world class Life Science Park to attract foreign direct investments in Pharmaceutical, Medical

devices, Bio- Technology, Nano Technology etc. and to develop core activities like manufacture, research and development. Accordingly, infrastructural facilities are to be provided by KSIDC by establishing a Life Science Park for the aforementioned priority industries; so submitted the learned senior counsel for the KSIDC. Consequent to the decision to establish a Life Science Park in the 250 acres, the earlier proposal for setting up the IT Park cum Township in Veillur Village was given up and dropped.

15. It is crucial to note that the petitioners have been repeating the contentions that the acquisition of their land was for IT Park and Township. The petitioners have no objection to this. Here, it has to be noted that the establishment of priority industries in the Life Science Park is of considerable public benefit. In the matter of production of Pharmaceutical, medical devices, bio-technological products etc. to cater to the health services apart from providing employment

for large number of people and generating revenue for the State. The petitioners cannot challenge the implementation of industrial policy of the State Government in the writ petitions like these as it is settled that this Court cannot sit in appeal over the decision of the Government on policy matters like this.

16. The petitioners cannot challenge the acquisition of lands for a public purpose as defined in Section 3(f) of the Land Acquisition Act. The inclusive definition of public purpose among other things specifies the provision of land for a Corporation owned or controlled by the State. Section 3(cc) of the Act defines Corporation owned or controlled by the State to include a Government company as defined under Section 617 of the Companies Act, 1956. As per Section 617 of the Companies Act, the Government company means any company in which not less than 51% of the paid up capital is held by the Central Government or State

Government or Government wholly or partly by one or more State Governments.

17. Therefore, it was submitted by the learned senior counsel for the respondent KSIDC that the entire paid up share capital of KSIDC is held by the Government of Kerala and KSIDC is therefore, a Government Company. There cannot be any dispute regarding the said proposition.

18. As already pointed out, the very purpose of acquisition of the petitioners' land was for a public purpose. The land in question notified under Section 6 of the Act has been issued for acquisition by KSIDC which is a Government company.

19. The Apex Court had occasion to consider the acquisition of land for Andhra Pradesh Industrial Infrastructural Corporation Limited which was a Government Company and agency of Government of Andhra Pradesh like KSIDC, is for a public purpose. In **(Sooraram Pratap Reddy and others v District Collector Ranga Reddy District and others)**

(2008)9 SCC 552, it was held that if proper development of land is sought to be acquired, such action could not be said to be illegal or unlawful or in colourable exercise of power.

20. In some of the writ petitions, the allegations are made against the then M.D. of KSIDC who had taken decision in respect of establishment of Life Science Industries according to the Industrial Policy, 2007 of the Government of Kerala. It is crucial to note that it was for the then Managing Director of the KSIDC to implement the policy decision of the Government as a responsible officer of the Government of Kerala. It was strenuously argued by the learned counsel appearing for some of the petitioners that the then Managing Director acted at the behest of English India Clays Ltd. and mining areas supplying china clay to M/s English India Clays Ltd. have been excluded from the proposed acquisition. The M.D. was made a respondent in certain writ petitions wherein he has filed a counter

affidavit denying the allegations levelled against him.

21. Mr.Aloysius Thomas, the learned Senior Government Pleader would submit that in addition to the publication of Section 4(1) notification in the official gazette, public notice was given at the Village Office, Taluk Office and also at convenient places of the locality. The declaration was published on 23.11.2009. Section 4 of the Act mandates for publication of the declaration in the official gazette and in two daily newspapers and the Collector shall cause public notice of the substance of such notification to be given at convenient places of the said locality and the last of the dates of such publication and giving of such public notice is the date of publication of the notification. Therefore, it was pointed out by Mr.Aloysius Thomas that the declaration made on 23.11.2009 was made before the date of expiry of one year from the date of publication of notification and therefore, the declaration is valid and hence, it cannot be

challenged by the petitioners. I see valid force in the said submission and therefore, the allegation of the petitioners that Section 6 declaration is invalid due to lapse has no force at all.

22. It was strenuously argued by the learned counsel appearing for the petitioners that no detailed project report of Life Science Park has been prepared. It has to be noted that the proposed Life Science Park is an industrial park just like IT Parks, Rubber Park and other Industrial Parks in the State to provide infrastructural facilities for particular industries. The principal infrastructural requirement for establishing industry is land at suitable locations having transportation and communication facilities and availability of electricity and water supply. It was pointed out by the learned senior counsel for the KSIDC that there is no mandatory requirement of a project report for establishment of an industrial estate or industrial park as in the case of Hi-Tech manufacturing industries. Here, total extent of land

required has been identified, assessed and estimated by KSIDC.

23. It is evident that the attempt of the State was to use the status of KSIDC as the Government company and to acquire land on its behalf and thereafter, to transfer the land to the company by KSIDC and to get few shares in the KSIDC.

24. It was further argued by the learned counsel for the petitioners that the need of KSIDC to acquire shares in a company to be incorporated is not a public purpose, as the land acquired for industrial gross centres are not fully utilised by KSIDC.

25. It can be seen from the matters now placed on record that the Board of Directors of the KSIDC at 259th meeting held on 21.6.2008 had approved the acquisition of the land for establishment of Life Science Parks. The decision to develop 250 acres of land at Pallipuram was in line with the industrial policy of the Government. The Board of Directors of KSIDC ratified the action taken by the Managing

Director for acquisition of the land for the purpose of establishing a Life Science Park. The proceedings of the Board of Directors is produced and marked as Ext.R5(a) in WPC No.3011/2010. The said decision has confirmed the earlier decision to acquire the land for KSIDC for establishing Life Science Park. Thereafter the Government by its orders G.O.(Rt) No.1551/07/ID dated 5.12.2007 and G.O.(Rt) No.38/08/ID dated 15.1.2008 had approved the acquisition of land by KSIDC as stated in the Board's resolution in its 259th meeting.

26. After notification for acquisition of lands, the District Level Purchase Committee under the Chairmanship of the District Collector was convened on 23.3.2010 for effecting negotiated purchase of the lands. Sixty four land holders attended the meeting and everyone of them claimed much higher price than the market value. It was in this context, the Government had decided to proceed under the Land Acquisition Act for acquisition of the

lands. Therefore, the argument advanced by the learned counsel for the petitioners that the notification for acquisition of land was without any authority of law has no force to stand. It is true that resolution dated 29.12.2006 of the Board of Directors confirmed the negotiated purchase. However, the circumstances which led to Section 4(1) notification is specifically stated in the counter affidavit filed by the State. Merely because of the fact that the Board of Directors of KSIDC have taken a decision for negotiated purchase for a speedy process, the same will not stand in the way of the Government in issuing Section 4(1) notification in the event of failure of the decision for negotiated purchase.

27. Some of the petitioners have raised the allegation that the lands to be acquired for Life Science Park are to be sold to NRI's and other investors. This, according to the respondents, is baseless. The lands in industrial parks or IT parks are not sold to the industrialists, but are given on lease

for specific periods with strict conditions to establish and operate the particular industries, subject to several terms and conditions. On breach or default of any term or condition, the lands would be resumed by the Industrial Parks or IT Parks and would be allotted to other industrialists.

28. As rightly pointed out by the learned standing counsel for KSIDC and the learned Senior Government Pleader, the Life Science Park is of great public importance in producing pharmaceutical products and equipments for health and life care and welfare of the people. The benefits and contribution of the Life Science Industries is far greater than those of IT Parks and other industrial parks.

29. It is crucial to note that none of the petitioners have objection for establishing IT Park cum Township. If a proposal to establish IT Park cum Township by a public limited company is a public purpose, the establishment of Life Science Park by KSIDC is also a public purpose.

30. On a consideration of the entire materials now placed on record, this Court is of the definite view that the scope of interference by this court in exercise of the powers under Article 226 of the Constitution of India is little on the grounds specified in the writ petition.

Therefore, these writ petitions fail and accordingly, they are dismissed.

sd/-A.V.RAMAKRISHNA PILLAI
JUDGE

css/

true copy

P.S.TO JUDGE