AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1649 of 2017

Smt. Anita Agrawal W/o Shri Ashok Agrawal, Aged About 47 Years R/o Jain Mandir Road, Kranti Nagar, Bilaspur, Tehsil And District Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue And Disaster Management, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
2. Collector, Bilaspur, Collectorate, Nehru Chowk, Bilasur, District Bilaspur Chhattisgarh.
3. Land Acquisition Officer-Cum- Sub Divisional Officer Revenue, Bilha, District Bilaspur Chhattisgarh.
4. Executive Engineer, Water Resources Division Kota, Water Resources Department, Bilaspur, District Bilaspur Chhattisgarh.
5. Union Of India, Through The Secretary, Ministry Of Rural Development, Department Of Land Resources, Government Of India, Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi 110001.

---- Respondents

WPC No. 661 of 2017

Smt. Kusum Panjwani W/o Shri Shankerlal Panjwani, Aged About 36 Years R/o Village Bodri, Patwari Halka No. 1, Revenue Block Bilha, Tehsil Bilha, District Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue And Disaster Management, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
2. Collector Bilaspur, Collectorate Nehru Chowk, Bilaspur, District Bilaspur, Chhattisgarh.
3. Land Acquisition Officer Cum Sub Divisional Officer Revenue , Bilha, District Bilaspur, Chhattisgarh.
4. Executive Engineer, Water Resources Division Kota, Water Resources Department, Bilaspur, District Bilaspur, Chhattisgarh.
5. Union Of India, Through The Secretary, Ministry Of Rural Development, Department Of Land Resources, Government Of India, Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi 110001.

---- Respondents

WPC No. 672 of 2017

Vishnu Prasad Sahu S/o Shri Bhuku Sahu, Aged About 65 Years R/o Village Bodri, Patwari Halka No. 1, Revenue Block Bilha, Tehsil Bilha, District Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue And

Disaster Management, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.

2. Collector Bilaspur, Collectorate Nehru Chowk, Bilaspur, District Bilaspur, Chhattisgarh.
3. Land Acquisition Officer Cum Sub Divisional Officer Revenue , Bilha, District Bilaspur, Chhattisgarh.
4. Executive Engineer, Water Resources Division Kota, Water Resources Department, Bilaspur, District Bilaspur, Chhattisgarh.
5. Union Of India, Through The Secretary, Ministry Of Rural Development, Department Of Land Resources, Government Of India, Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi 110001.

---- Respondents

WPC No. 1650 of 2017

Ashok Agrawal S/o Late Shri Jagmohan Das Agrawal, Aged About 51 Years R/o Jain Mandir Road, Kranti Nagar, Bilaspur, Tehsil And District Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue And Disaster Management, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
2. Collector, Bilaspur, Collectorate, Nehru Chowk, Bilasur, District Bilaspur Chhattisgarh.
3. Land Acquisition Officer-Cum- Sub Divisional Officer Revenue, Bilha, District Bilaspur Chhattisgarh.
4. Executive Engineer, Water Resources Division Kota, Water Resources Department, Bilaspur, District Bilaspur Chhattisgarh.
5. Union Of India, Through The Secretary, Ministry Of Rural Development, Department Of Land Resources, Government Of India, Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi 110001.

---- Respondents

WPC No. 1722 of 2017

Ashok Agrawal S/o Late Shri Jagmohan Das Agrawal Aged About 51 Years R/o Jain Mandir Road, Kranti Nagar, Bilaspur, Tehsil And District Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue And Disaster Management, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
2. Collector, Bilaspur, Collectorate Nehru Chowk, Bilaspur, District Bilaspur, Chhattisgarh.
3. Land Acquisition Officer-Cum-Sub Divisional Officer Revenue Kota, District-Bilaspur, Chhattisgarh.
4. Executive Engineer, Water Resources Division, Kota, Water Resources Department, Bilaspur, District Bilaspur, Chhattisgarh.
5. Union Of India Through The Secretary, Ministry Of Rural Development,

Department Of Land Resources, Government Of India, Krishi Bhawan, Dr. Rajendra Prasad Road, New, Delhi, 110001.

---- Respondents

WPC No. 2816 of 2016

M/s Jindal Infracom Pvt. Ltd. Add. - Jabbal Gali, Nehru Nagar, Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. Union Of India Through Secretary Revenue And Public Work Department Mahanadi Bhawan, New Delhi India.
2. State Of Chhattisgarh, Through Secretary, Revenue And Public Work Department Mahanadi Bhawan, Naya Raipur, Chhattisgarh.
3. Collector, District Bilaspur, Bilaspur, Chhattisgarh.
4. Office-In-Charge Land Acquisition Officer, Kota, District- Bilaspur Chhattisgarh.
5. Sub-Divisional Officer Revenue Cum Land Acquisition Officer, Kota, District-Bilaspur, Chhattisgarh.
6. Executive Engineer, Department Of Water Resources Kota, District- Bilaspur, Chhattisgarh.

---- Respondents

WPC No. 2813 of 2016

Manoj Kumar Agrawal S/o Shri Pawan Kumar Agrawal Aged About 35 Years R/o Jabbal Gali, Nehru Nagar Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. Union Of India Through Secretary Revenue And Public Work Department Mahanadi Bhawan New Delhi India.
2. State Of Chhattisgarh, Through Secretary Revenue And Public Work Department Mahanadi Bhawan, Naya Raipur Chhattisgarh.
3. Collector, Bilaspur, District Bilaspur Chhattisgarh.
4. Office In Charge, Land Acquisition Branch, Collectorate, Bilaspur Chhattisgarh.
5. Sub Divisional Officer Revenue Cum Land Acquisition Officer, Kota District Bilaspur Chhattisgarh.
6. Executive Engineer, Department Of Water Resources Kota District Bilaspur Chhattisgarh.

---- Respondents

WPC No. 2814 of 2016

Smt. Sharda Devi Agrawal W/o Shri Pawan Kumar Agrawal Aged About 58 Years R/o Jabbal Gali, Nehru Nagar Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. Union Of India Through Secretary Revenue And Public Work Department Mahanadi Bhawan New Delhi India
2. State Of Chhattisgarh, Through Secretary Revenue And Public Work Department Mahanadi Bhawan, Naya Raipur Chhattisgarh.

3. Collector, Bilaspur, District Bilaspur Chhattisgarh.
4. Office In Charge, Land Acquisition Branch, Collectorate, Bilaspur Chhattisgarh.
5. Sub Divisional Officer Revenue Cum Land Acquisition Officer, Kota District Bilaspur Chhattisgarh.
6. Executive Engineer, Department Of Water Resources Kota District Bilaspur Chhattisgarh.

---- Respondents

WPC No. 2087 of 2018

Kamal Jain S/o Shri Maniklal Jain Aged About 55 Years R/o South Avenue 22 B, Chaubey Colony Raipur Chhattisgarh.

---- Petitioner

Versus

1. Union Of India Through Secretary Revenue And Public Work Department Mahanadi Bhawan At New Delhi (India).
2. State Of Chhattisgarh Through Secretary Revenue And Public Work Department Mahanadi Bhawan Naya Raipur Chhattisgarh.
3. Chief Executive Officer Naya Raipur Development Authority Raipur Chhattisgarh.
4. Collector District Raipur, Raipur Chhattisgarh.
5. Sub Divisional Officer Cum Land Acquisition Officer Arang / Abhanpur Raipur Chhattisgarh.

---- Respondents

For respective Petitioners	: Shri Amrito Das and Shri Rakesh Dubey, Advocates.
For Respondent/State	: Shri Jugal Kishore Gilda, Advocate General with Shri Prafull N. Bharat, Additional Advocate General.
For Respondent/UOI	: Shri B. Gopa Kumar, Assistant Solicitor General.
For Respondent No.3/CEO in WPC No.2087/2018	: Shri Anumeh Shrivastava, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

30/10/2018

Per Ajay Kumar Tripathi, Chief Justice

1. Heard counsel for the parties.

2. In the present writ applications, the legality and validity of the notification dated 04.12.2014 which is Notification No.F-4-28/Seven-1/2014 issued by the State Government under S'ection 30(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act of 2013') is under challenge. The said notification is Annexure P/1. Petitioners are aggrieved by the fact that by said notification the State Government has fixed multiplier of 1.00 (one) in calculating the compensation for lands situated in rural areas across the State. Land of the Petitioners' were acquired by the Respondent/State authorities for various reasons across the State. While calculating the award, the Respondent authorities keeping in mind the notification dated 04.12.2014 (Annexure P/1), decided to apply the multiplier of 1.00 when the statue itself provided multiplier ranging from 1.00 (one) to 2.00 (two).

3. It is the contention for the counsel for the Petitioners that the said notification is against the spirit and object of the legislation since the legislature themselves have fixed the multiplier ranging from 1.00 to 2.00 depending upon the location of the land in the rural areas. Further the rural area from civilization or an urban location more the multiplier. This is so because land being the sole source of livelihood for village people and since the value of land in the remote or rural areas is on the lesser side, therefore, a better compensation is required to be paid for such land by a higher multiplier.

4. During the course of argument, counsel for the Petitioners has drawn the attention of the Court to a decision of a Division Bench of the Bombay High Court on identical issue, which came up for consideration before a Division Bench in the case of **Panjabrao S/o Ganpatrao Borade v. The State of Maharashtra and Ors.** reported in **2015 (6) MhLj 69**.

5. Section 26(1) of the Act of 2013 has given power to the Collector to determine the market value of the land proposed to be acquired by adopting the criteria laid down therein. Sub-section (2) of Section 26 of the Act of 2013, provides that market value so calculated by the Collector as per the provisions of Sub-section (1) of Section 26 shall be multiplied by Factor to be specified in the First Schedule. It is appropriate to reproduce the provisions of clause (a) of sub-section

(1) to Section 24, as well as subsection (2) of Section 26, for ready reference:

> "Sec. 24(1)...
>
> (a) where no award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply;
>
> (b) ......
>
> (c) ......"
>
> "Section 26(1)...
>
> (a) ......
>
> (b) ......
>
> (c) ......
>
> (2) The market value calculated as per sub-section (1) shall be multiplied by a factor to be specified in the First Schedule.
>
> ...."

6. In the case of **Panjabrao** (supra), a notification issued by the Revenue and Forest Department, Government of Maharashtra notifying a multiplier of 1.00 to the extent of 1.10 for varied distance in kilometers was notified. It became subject of challenge, whether such notification stood the test of the legislative intent and object behind the varying multiplier factor, provided in the Act.

7. Having dealt with the various contentions placed before the High Court which more or less is in similar terms in the present cases, the Division Bench answers the question of validity of notification on the multiplier effect in following words:-

> “28. Section 26 of the Act of 2013 provides the criteria which needs to be adopted by the Collector for assessing and determining the market value of the land on the date of notification under Section 11 of the Act. Section 26(2) provides for multiplication of that market value by a factor to be notified by the appropriate Government. Section 26(2) read with the First Schedule to the Act of 2013 mandates that the market value of the land located in rural areas needs to be multiplied by a Factor ranging between 1 (one) to 2 (two) based on the distance of the project from urban area. Thus, the First Schedule which is titled as "Compensation for Land Owners" contains component of compensation package and the package placed at Sr. No.2 in that schedule prescribe guiding principle which needs to be used for determination of multiplier factor in rural areas. <u>This guiding principle, as seen from compensation package at Sr. No. 2 for the land located in</u>

rural areas is distance of the project from urban area. This makes it explicitly clear that in rural areas which are farthest from urban area, the multiplier factor is required to be two and when rural area covered under the project is closer to the urban area, such multiplier factor scales down to less than two and even up to one, when the land sought to be acquired for the project is closest to the urban area. One cannot dispute the proposition that a Schedule in an Act is not mere question of drafting and is as much a part of statute and as much an enactment, as any other part. Miss Talekar, learned counsel for petitioner has rightly relied on *M/s. Ujagar Prints and others vs. Union of India (1989)3 SCC 488* and *M/s. Aphali Pharmaceuticals vs. State of Maharashtra & Others, (1989) 4 SCC 378* to buttress this proposition.

29. The basic reason which seems to be considered for providing higher multiplier factor even up to two for lands situated in rural area sought to be acquired for the project is dependence of the people on such land for their survival and livelihood, coupled with low market price of such remotely located land, as compared to land situated in urban area. A fair balance appears to have been achieved by making a provision of multiplication of the market value by the factor to be notified by the appropriate Government considering the distance of the land under acquisition in rural area from urban area, so as to provide for infrastructural needs and sustainability of agriculture and rural livelihood. For this reason, entry No.2 in the First Schedule provides for higher multiplier factor in respect of lands sought to be acquired from rural area based on their distance from urban area. Therefore, as the distance of land sought to be acquired from rural area increases from that of urban area, the multiplier factor is required to be increased suitably. It is seen that there was no such analogous provision regarding multiplier in the old Act i.e. Act of 1894. Similarly, it needs to be mentioned here that Section 30 of the Act of 2013 makes a provision for awarding solatium @ 100% of the total compensation which is required to be paid. The Act of 1894 was providing for solatium only @ 30% on the market value of the land.

30. The Act of 2013 and more particularly, Section 106 thereof, makes it clear that the Central Government cannot amend or alter any of the Schedules to the said Act including the First Schedule, so as to reduce the compensation payable or for diluting the provisions of the Act relating to compensation or rehabilitation and resettlement. Section 107 of the Act of 2013, empowers the State Legislature, to enact any law to enhance or add to the entitlement enumerated under the Act, which confers higher compensation than the one payable under the Act of 2013. Thus, the State Legislature can enact any law conferring higher compensation than the one provided under the Act of 2013. Section 108 of the Act of 2013 provides an option to affected families to avail better compensation and rehabilitation and resettlement if State

law or policy so provides. The thrust seems to be that the compensation cannot be lower than the one prescribed under the Act of 2013. From the affidavit of the respondent/State it is seen that vide notification dated 27.8.2014 issued by the respondent No.5 - Revenue and Forest Department, a policy under Section 108 is framed after considering all the objections and suggestions received by the State. Part 1 of the said policy framed under Section 108 by the respondent/State provides for land valuation. Clauses 2 and 3 of this policy needs reproduction. They read thus :-

> "2. The multiplication factor by which market value of the land is multiplied will be 1.20 in case of rural areas and 1.10 for urban areas. (This factor should be atleast 10 percent higher than the State approved multiplier.)
>
> 3. Compensation of the land to be acquired in rural area : (market value x 1.20) plus (value of assets attached to land or building) plus (100 % solatium) = Land Compensation price.
>
> Compensation of the land to be acquired in urban area :
>
> (market value x 1.10) plus (value of assets attached to land or building) plus (100 % solatium) = Land Compensation."

31. It is well settled that a statute is to be read as a whole and every clause of a statute has to be constructed with reference to the context and other clauses of the Act. Ordinarily, the intention of the legislature is what it states to be its intention by the words employed in the statute. The Act of 2013 as seen from the provisions thereof, gives very high weightage to the provisions relating to payment of compensation. Even it makes provision for penalty for contravention of the provisions of the said Act relation to payment of compensation or rehabilitation or resettlement. Section 85 of the said Act prescribes penalty by providing that if any person contravenes any of the provisions of the Act relating to payment of compensation etc, he shall be liable to punishment for six months which may extend to 3 years or with fine or with both. <u>If the entire scheme of the Act of 2013 is considered then it becomes crystal clear that the said Act is a social welfare legislation enacted to benefit the land owners in the event of acquisition of their land by the State. It is not a statute dealing with fiscal matter or economic policy of the State such as hiking tax liability. As such the provisions of the Act of 2013 deserve liberal construction in favour of the subject.</u> The Act of 2013 makes provision for minimum quantum of compensation payable to land holders and simultaneously it provides for various safeguards so that provisions for compensation payable under the Act should not be diluted by adopting any tactics. It is well settled that while construing a welfare statute, the Court is required to give such statute widest operation which its language permits. In the matter of *Executive Engineer Southern Electricity*

Supply Company of Orissa Ltd and another vs. Shri Seetaram Rice Mills reported in (2012) 2 SCC 108, it is held that the legislative history and objects are important aids in constructing provisions of a statute. Similarly, the statement of objects and reasons are also considered to be an internal aid while interpreting statute as laid down by the Honourable Supreme court in *Devachand Builders and Contractors vs. Union of India and others reported in (2012) 1 SCC 201.*

33. Mere providing a fixed multiplier for all land in rural area which are situated more than 25 Kilometers away from the urban area (nearest Municipal Corporation area) depicts total non application of mind while exercising the discretion provided in First Schedule to the Act of 2013 by respondent/State. Policy guideline to exercise discretion for fixing multiplier provided by the First Schedule is the distance of land under acquisition located in rural area from the urban area. Fixation of fixed multiplier of 1.10 in respect of all lands from rural area which are 25 or more kilometers away from urban area in absence of any such guideline or policy depicts colourable exercise of discretion as well as total non-application of mind and it is contrary to the Constitutional mandate under Article 14. The exercise undertaken by respondent/State in limiting the multiplier factor to 1.10 only for all lands in rural area which are at a distance of more than 25 Kilometers from urban area, shows that the respondent/State has failed to consider the relevant factor of remoteness of land situated in rural area from urban area. The very relevant factor of remoteness from urban area seems to he kept out of consideration by the respondent/State by undertaking half-hearted exercise, concluding that near about 20601 villages are situated above the distance of 25 Kilometers from nearest Municipal Corporation area. With this reasoning, the multiplier factor is spelt out at 1.10 though the First Schedule provides that the same needs to be ranging from 1 to 2 on the basis of actual distance of the project from the urban area. Low market price of remotely located land from rural area requires provision for higher multiplier. This seems to be the object for provision of multiplier ranging from 1 (one) to 2 (two). Pegging multiplier factor at 1.10 for all rural lands located more than 25 Kilometers away from urban lands has resulted in giving discriminatory treatment to the land holders whose lands are situated at a far off place from urban area. A land holder whose land is just 25 Kilometers away from urban area will now get compensation by applying very same multiplier factor which a land holder whose land is located at a very long distance, say more than 100 Kilometers or 150 kilometers away from nearest urban area will get. By this arbitrary exercise of discretion the very object of the Act of 2013 of providing adequate compensation to the land holders whose lands are situated at remotest place is frustrated. For judicious exercise of discretion conferred by the First Schedule to the Act of 2013, it was incumbent on the part of

respondent/State to undertake survey of calculating exact distance of all lands situated in rural areas from the nearest urban area and then based upon such actual distance multiplier factor ought to have been determined by it. In a similar way, adopting method of calculating radial distance from urban area is also not in consonance with the guideline for fixation of multiplier enumerated in the First Schedule to the Act of 2013. Even in the case in hand, land of the petitioner proposed for acquisition is stated to be located in a rural area situated at a distance of about 75 Kilometers from Jalna town. Still, he will get multiplier factor of only 1.10 in view of notification dated 13.8.2014.

34. By ignoring relevant factor of undertaking exercise of assessment and calculation of actual distance of the remotest rural area from nearest urban area (nearest Municipal Corporation area) and by pegging maximum multiplier only to 1.10, respondent/State has virtually refused to exercise the discretion conferred upon it under Section 26(2) as well as clause 2 of the First Schedule to the Act of 2013. In this manner, the desire of the legislature as expressed in Section 26(2) and the First Schedule to the Act of 2013 is not implemented by respondent/State in its true letter and spirit.

35. Depending upon the distance between the land from rural area proposed to be acquired and the urban area, the multiplier factor was required to be prescribed from range given i.e. from 1 to 2 and by limiting the exercise of calculating distance and that too radial only up to 25 Kilometers from urban area, respondent/State has defeated the object and purpose of the Act of 2013. At this juncture, it is relevant to note that as per the provisions of Section 106 of the Act of 2013, even the Central Government cannot amend or alter any Schedule to the Act of 2013 in order to reduce the compensation payable or to dilute the provisions relating to compensation. By fixing the multiplier factor at 1.10 for all lands in rural area situated at a radial distance of more than 25 Kilometers from urban area, the State has virtually caused an amendment to the First Schedule of the Act of 2013 in order to reduce the amount of compensation payable to land holders. The First schedule to the Act of 2013 is part and parcel of that statute and the State Government being an appropriate Government could not have prescribed maximum multiplier factor of 1.10 only for all lands in rural area, which are more than 25 Kilometers away from the urban area. In the similar way, act of respondent/State in fixing the multiplier to 1 by earlier notification dated 19.3.2014 (Exhibit D) reflects complete refusal to exercise discretion conferred by the First Schedule by ignoring to consider the relevant factor of distance of project from urban area.

45. It is required to be kept in mind that the notifications or rules which are examples of delegated legislation, cannot override the statutory mandate. The subordinate legislation has to supplement and not to supplant the

statute. In the matter of *Vasu Dev Singh and others Vs. Union of India and others, reported in (2006) 12 SCC 753*, and particularly, in paragraph 26 of said judgment, the Hon'ble Supreme Court has held that if by a notification, the Act itself stands effaced; then such notification needs to be struck down. It is further held in para 118 of the said ruling that a statute can be amended, partially repealed or wholly repealed by the legislature - The delegated legislation must be exercised, it is trite, within the parameters of essential legislative policy. The benefit granted by the statute cannot be nullified by the rules framed thereunder. This aspect is clear from the judgment of the Hon'ble Supreme Court, in the matter of *State of Karnataka and others Vs. H. Ganesh Kamath and others, reported in (1983) 2 SCC 402, and Kerala Samsthana Chethu Thozhilali Union Vs. State of Kerala, reported in (2006) 4 SCC 327*. Viewed from this angle, perusal of Clause 2 of the First Schedule to the Act of 2013 makes it clear that the same prescribes discretion regarding determination of different slabs of multiplier factors for multiplying the market value of land in rural areas depending upon its distance from urban areas. Neither any discretion nor corresponding guideline is provided for limiting the multiplier factor to a figure below 2 and, as such, the decision of the appropriate Government reflected in the impugned notifications cannot be upheld. The same is bad in law and deserves to be quashed and set aside.”

8. The stand of the State is in following terms:-

“5. On behalf of the answering respondents it is most respectfully submitted that the subject acquisition is for construction of main canal for the Arpa Bhaisajhar which is a project of linear nature and the major irrigation project of the State Government. The said project is purely a project of the State of Chhattisgarh and targets irrigating 25,000 hectare of and it would be beneficial for the Agriculturists of the 102 villages of the adjoining area. It is most respectfully submitted that in the case in hand the appropriate Government is the State of Chhattisgarh, hence, the notification dated 04/12/2014 wherein the factor has been fixed to be one would be applicable. It is most respectfully submitted that there is no illegality in the notification dated 04/12/2014 as the same has been issued strictly in accordance with law and in exercise of power provided under sub section 2 of section 13 read with entry made in S.No.2 of the First Schedule of the Act, 2013. The said notification is well within the competence of the State Government and while issuing the said notification the State has taken into consideration all the relevant factors. It is most respectfully submitted that it will not be out of place to mention here that in the said notification it is specifically been provided that; in any case compensation payable including (solatium and interest) shall not be less than Rs.6 Lacs per acre in case of barren

> land, less than Rs.8 Lacs per acre in case of non irrigated single cropped land and Rs.10 Lacs per acre in case of irrigated double cropped land as per provision of the Rehabilitation Policy, 2007 of the State." The said proviso has specifically been given place in the light of the Rehabilitation Policy, 2007 issued by the State Government of Chhattisgarh which aims that the maximum welfare of the affected people.
>
> 6. It is most respectfully submitted that the petitioner's entire case is based upon the notification dated 09/02/2016 (Annexure P/6) issued by the Union of India wherein the factor has been kept at 2 the said notification has no role to play in the case in hand because this notification will be purely applicable in the cases where the acquisition is for the projects of the Union whereas in the case in hand Arpa Bhaisajhar Project is purely project of the State Government of Chhattisgarh and notification Annexure P/1 issued by the State would be applicable. It is further most respectfully submitted that the legislature has intentionally the factor from 1.00 (one) to 2.00 (two) based on the distance of project from urban area as may be notified by the appropriate Government and in the case in hand the subject land hardly 8 KM from the urban area. The award is just and proper and it does not warrant any interference by this Hon'ble Court.
>
> 7. On behalf of the answering respondents it is further most respectfully submitted that the Government of India Ministry of Rural Development Department of Land Resources vide communication dated 08/05/2017 (Annexure R/1) have clarified the position with respect to applicability of the multiplying factor provided in the First Schedule of the Act, 2013 and as per the said clarification point No.2(1)(a) clearly states that for acquisition of land situated within the territory of the State the appropriate Government is the State Government, thus, it can be safely said that the notification dated 4th December, 2014 (Annexure P/1) has been issued by the appropriate Government in exercise of powers conferred under the Act and the same is just and proper."

9. Keeping the above arguments and the stand of the State taking their return, we are not satisfied with the so-called explanation offered as to why a multiplier of 1.00 as a thumb rule should be used for the entire State of Chhattisgarh. The very object and purpose behind the variable component between 1.00 and 2.00 has been lost, if not robbed.

10. Further, the question is not about the power of the State Government to issue such notification, the question is the manner in which such power has been exercised which can also be levelled as mindless exercise of power since by restricting the multiplier factor to 1.00, the State is obviously trying to treat all land owners as one. This will deny to the poor land owners of the remote villages, fair compensation and rehabilitation, which is the primary object behind the new Land Acquisition Act of 2013.

11. Drawing analogy from the view taken by the Division Bench of Bombay High Court, which we have quoted with due approval, Court is left with no option but to strike down the notification dated 04.12.2014 contained in Annexure P/1. A direction is issued that keeping in mind the legal position which emerges, the State Government will issue a fresh notification indicating the multiplier factors, in terms of the guidelines laid down in the statue and the judgment.

12. It goes without saying that all awards and compensations in relation to not only these Petitioners but all such persons whose lands have been acquired and a multiplier of 1.00 has been used for calculating the compensation, the same will be required to be revised and revisited in light of the new notification, which is required to be notified by the State Government, on priority.

13. All the writ applications are allowed in terms of the above.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE

Yogesh