

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4126 of 1991

1. JHULAN BATTHA, son of late Sri Benga Baitha
2. Dhenukh Baitha, son of late Sri Benga Baitha
3. Shiv Pujan Baitha, son of Late Sri Benga Baitha
All residents of village Kurthia, Police Station and P.O. Bhore, District Gopalganj

... .. Petitioner/s

Versus

1. STATE of Bihar
2. The Commissioner, sarani division Chapra
3. Additional Collector, Gopalganj
4. Land Reforms Deputy Collector, Gopalganj
5. Circle Officer, Bhore, District-Gopalganj
6. Block Development Officer, Bhore, District-Gopalganj
7. Zila Bhudan Yagya Committee, Gopalganj
8. Bihar Bhudan Yagya Committee, Kadamkuan, Patna
9. Dinesh Bhagat, son of late Nathuni Bhagat
10. Ram Sanhei Bhagat, son of late Sri Rojhan Bhagat
11. (i) Yugal Kishore Bhagat
(ii) Ramesh Sinha, both sons of late Ram Byas Bhagat
12. Radha Kishun Bhagat, son of Sri Jokhan Bhagat
All residents of village Kurthia, Police Station and P.O. Bhore, District-Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pramod Kr Singh, Advocate
For the State of Bihar	:	Mr. Ashutosh Ranjan Pandey, AAG-15 with Mr. Rakesh Narayan Singh, AC to AAG-15
For Bhoodan Yagna Committee:		Mrs. Alka Verma, Advocate Mr. Ramchandra Lal Das, Advocate
For Private Respondents	:	Mr. Rabindra Kumar Tiwary, Advocate Mr. Sanjay Kumar Tiwari, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 26-06-2019

This writ application was filed nearly three decades ago by the petitioners, who claim to be landless. There was an order passed on 10.10.1983, by the Land Reforms Deputy Collector, Gopalganj, upholding the certificates issued by the Bhoodan



Yagna Committee (hereinafter referred to as the Committee) under the Bihar Bhoodan Yagna Act, 1954 (hereinafter referred to as 'the Act'), settling Bhoodan lands in question, in favour of the private respondents; with a direction to the Circle Officer, Gopalganj to fix the rent accordingly. An appeal preferred by these petitioners before the Additional Collector, Gopalganj, giving rise to Miscellaneous Case No. 23 of 1983-84 came to be disposed of by an order dated 06.07.1987, whereby the said order of the Deputy Collector Land Reforms dated 10.10.1983, was set aside. The matter was remanded back to the Deputy Collector Land Reforms for taking a decision afresh. The Deputy Collector Land Reforms again upheld the decision of the Committee to settle the land in favour of the contesting respondents, by an order dated 16.12.1989. In the meanwhile, the contesting respondents had filed a revision petition before the Board of Revenue, Bihar, against the order of the Additional Collector, Gopalganj passed in Misc. Case No. 23 of 1984-83, which was dismissed on 11.01.1989. An appeal was preferred against the order of the Deputy Collector Land Reforms dated 15.12.1989 before the Additional Collector, Gopalganj. The Additional Collector, Gopalganj by an order dated 25.05.1990 again set aside the order dated 15.12.1989 of the Deputy



Collector Land Reforms and asked the Circle Officer, Bhore to cancel the *jamabandi* created in the name of the contesting private respondents. The opinion of the Deputy Collector Land Reforms that the petitioners could have approached Bhoodan Yagna Committee for the relief which they were seeking was turned down by the Additional Collector, Gopalganj on the reasoning that the Revenue Officer was the competent authority under Sections 22A and 23A of the Act. A revision petition was preferred before the Commissioner, Saran Division, Chapra, by the contesting respondents against the said order of the Additional Collector dated 29.05.1990. The Divisional Commissioner reached a conclusion that the certificates granted in favour of the private respondents could not be cancelled by the Bhoodan Yagna Committee, having no such authority under law and that such power vested in the Revenue Officer only, under Section 21 of the Act. The Commissioner, Saran Division, accordingly confirmed the order passed by the Deputy Collector Land Reforms dated 16.12.1989 and allowed the revision application, by his order dated 18.04.1991, after setting aside the order of the Additional Collector dated 29.05.1990. In the above background, this writ application has been filed seeking quashing of the aforesaid orders dated 10.10.1983 and



16.12.1989 passed by the Deputy Collector Land Reforms and the order dated 18.04.1991 passed by the Divisional Commissioner, Saran Division.

2. I have heard Mr. Pramod Kumar Singh, learned counsel for the petitioners, Mr. Ashutosh Ranjan Pandey, learned AAG-15 assisted by Mr. Rakesh Narayan Singh, learned AC to AAG-15, representing the State of Bihar and Mrs. Alka Verma, learned counsel appearing on behalf of Bihar Bhoodan Yagna Committee. I have also heard Mr. Raghavanand, learned counsel representing the private respondents.

3. Counter affidavits have been filed on behalf of the respondents which are there on record. This is to be noticed that though private respondents have entered appearance, no counter affidavit has been filed on their behalf.

4. There are certain facts which are not at all in dispute. Certain lands which were received in donation from the ex-landlord Gopendra Prasad Sahi of Hathua Raj, were settled in favour of the private respondents, treating them to be landless. Subsequent thereto, *Jamabandi* was accordingly created in their names. Feeling aggrieved, the petitioners approached the Court of Additional Collector, Gopalganj, asserting *inter alia* that settlement of land in favour of the private respondents in respect



of the donated land was already cancelled by Bhoodan Yagna Committee in the year 1981 and the same had been settled in their favour. They asserted that whereas the private respondents owned adequate land and could not be said to be landless, the petitioners belonged to Scheduled Castes and they were in actual possession over the land in question. It transpires from the order of the Deputy Collector Land Reforms, Gopalganj which is at Annexure-10 that the Deputy Collector in the light of an order passed by the Additional Collector, Gopalganj had called for a report from the Circle Officer, **Bhore**. The Circle Officer reported through his letter dated 04.08.1989 that Ram Sanahi (Respondent No.10) owned one Bigha seven Katha eight Dhur land and Radha Kishun (Respondent No.12) owned one Bigha one Katha land. Similarly, Ram Vyas (original Respondent No.12, since substituted by his legal heirs) owned one Bigha eight Katha fourteen Dhur of land and Nathuni Bhagat, (father of Respondent No.9) held one Bigha six Katha fourteen Dhur land in **Bhore Anchal**. He also reported that these persons held some land under **Kateya Anchal** too. A report was accordingly called for from the Circle Officer, **Kateya Anchal**. The Circle Officer, **Kateya Anchal**, it seems, sent in turn, his report, based on information which he had received from the *Halka*



Karmchari. It was mentioned in the report that the family of Nathuni Bhagat (Respondent No,9) held 44 Bigha 13 Katha 12 Dhur of land under **Kateya Anchal** and that there were many co-sharers in the family. The private respondents had disputed this fact before the Deputy Collector Land Reforms, asserting that the lands belonging to their ancestors have also been mentioned as their lands in the report of the Circle Officer, **Kateya**. It was claimed that whereas Respondent Nos. 9 and 10 were entitled for 1/28 share each of the said land, petitioner Nos. 11 and 12 were entitled to 1/6 only. This plea of the private respondents was accepted by the Deputy Collector Land Reforms who accordingly recorded his specific conclusion that none of the donees had more land than 1 and half acres of land. In respect of the petitioners, it was recorded in the report of the Circle Officer that in the name of grand mother of petitioner No.1, one (1) acre of land was standing. Dealing with the definition of landless under Section 2(d) of the Act, the Deputy Collector Land Reforms came to a conclusion that persons holding lands up to five (5) acres fell within the definition of landless. Relying on materials on record, the Deputy Collector Land Reforms had recorded that the nature of the disputed land was *gair mazura malik*, which was received in donation from



the landlord Gopeshwar Pd. Sahi under Bhoodan Yagna and was in effective possession of the said respondents. The land was donated on 02.01.1959, which was subsequently cancelled by the Secretary of the Bhoodan Yagna Committee, through his letter dated 11.05.1981 and got distributed among others on 01.08.1984. The Deputy Collector Land Reforms has further recorded that the said *gair mazurua maalik* land was though received in donation from the landlord through *Danpatra* but the said *Danpatra* was uptill then not confirmed under Section 11(5) of the Act. The Deputy Collector in his detailed order further concluded that in the absence of the *Danpatra* having been confirmed, the distribution/settlement of land was illegal. At the same time, he recorded that in the aforesaid circumstance, action of the Bhoodan Yagna Committee to distribute the land with the issuance of certificates in favour of the private respondents, the *Danpatra* having not been confirmed and; subsequent cancellation of such certificates and distribution of land in the name of other persons (the petitioners), was also illegal. He further noted that the land in question was still in possession of the private respondents in whose name the '*Jamabandi*' was already created. He accordingly recorded that the land in question was not free from dispute, as two *Jamabandi* could not



to be created at a time. For the aforesaid reasons he refused to fix rent in favour of the petitioners and gave liberty to the Bhoodan Yagna Committee to take steps for cancellation of *Jamabandi* created in the name of private respondents.

5. The foremost question which needs to be gone into in the present proceeding, in the background of the facts noted above, is whether private respondents can be described as landless within the meaning of Section 2(d) of the Act, which could have made them eligible for settlement/distribution of land vested in Bhoodan Yagna Committee. Yet another question has arisen, whether the Bhoodan Yagna Committee could issue *pramanpatra certificate* in favour of any person in respect of the land in question, in the absence of confirmation of *Danpatra*? Why the *Danpatra* was not confirmed, is yet another question which has intrigued me most and I have found no clue in this regard, on the basis of what has been pleaded and argued.

6. As has been noticed, at the very outset, the family of the contesting respondents had forty-four (44) Bighas and odd land in **Kateya Anchal** in addition to the land which they held in **Bhore Anchal**, when the land was settled in their favour by Bhoodan Yagna Committee in the year 1959, with the issuance of certificates (*Pramanpatra*). They have taken a plea that



because they were entitled to less than five acre of land individually out of the said land, they came within the definition of 'landless' under the Act. This Court had, out of natural inquisitiveness, wanted to know from the respondents, more particularly the Bhoodan Yagna Committee, its policy in respect of settlement of land under the Act to the needy. The Court wanted to know that in case there were persons who did not have any land at all, juxtaposed to others who had some land, what methodology would be adopted and was adopted for distribution of land received in Bhoodan movement/under the Act as it was startling to notice the facts, which appeared the Court to be full of contradictions. It looked peculiar for the Court to find that on the one hand, Bhoodan Yagna Committee had settled Bhoodan land in 1959 in favour of persons, who held some land, which could not said to be 'not substantial' or 'insufficient', and subsequently cancelled it after twenty two years in the year 1981. Most surprisingly, the Deputy Collector Land Reforms in one of the proceedings before him has recorded that the *Danpatra* was not confirmed under Section 11(4) of the Act and, therefore, the same could not have been distributed by the Bhoodan Yagna Committee. The *jamabandi* in the name of donees, in respect of the land in question, was



created on the basis of issuance of certificate and settlement made by the Committee. Since foregoing facts, as they emerged before this Court in relation to donation of the lands under Bhoodan Yagna movement and subsequent acts of Bhoodan Yagna Committee, appeared to be so disturbing, hitting at the very spirit of the Bhoodan movement and the 'Act' that this Court wanted to take a holistic view of the functioning of the Committee and to understand the policy of distribution of lands among the needy. I would be dealing with certain facts which are revealing, that have come through affidavits by the authorities under various orders of this Court, at appropriate stage of this judgment.

7. However, I consider it apt to ascertain first the meaning of a 'landless person' as defined under Section 2(d) of the Act, which reads thus:-

“2(d)“landless person” means a person-

(i) Whose main source of livelihood is agriculture or agricultural labour or who undertakes in writing to employ himself on lands granted to him under this Act; and

[(ii) who does not hold any land or holds such areas of land not exceeding five acres as may be prescribed by the Committee];

[and includes a person who has donated in writing his entire lands other than those enumerated in the proviso to subsection (1) of Section 10, to Shri Acharya Vinoba



Bhave or the Committee.

Explanation. – The Committee may prescribe in this behalf different areas for different parts of the State within the limits prescribed in sub-clause (ii)].
(Emphasis Added)

8. Purposive construction of a statutory provision is well established rule of statutory interpretation and the definition of the word ‘land less’ under Section 2(d) (ii) of the Act, in my opinion, will have to be considered in the background of the purpose of behind enactment of the Act, which I have discussed herein above.

It would be beneficial to refer to Supreme Court’s decision in case of **R. S. Nayak Vs. A. R. Antulay** reported in ((1984) 2 SCC 183 and in case of **N. Kannadasan and others vs. Ajoy Khose and others** reported in (2009) 7 SCC 1.

9. In case of **R. S. Nayak Vs. A.r. Antulay** (supra), the Supreme Court held in paragraph 34 as under:-

“34.....Basic purpose underlying all canons of construction is the ascertainment with reasonable certainty of the intention of Parliament in enacting the legislation. Legislation is enacted to achieve a certain object. The object may be to remedy a mischief or to create some rights, obligations or impose duties.



Before undertaking the exercise of enacting a statute, Parliament can be taken to be aware of the constitutional principle of judicial review meaning thereby the legislation would be dissected and subjected to microscopic examination. More often an expert committee or a joint parliamentary committee examines the provisions of the proposed legislation. But language being an inadequate vehicle of thought comprising intention, the eyes scanning the statute would be presented with varied meanings. If the basic purpose underlying construction of a legislation is to ascertain the real intention of the Parliament, why should the aids which Parliament availed of such as report of a special committee preceding the enactment, existing state of law, the environment necessitating enactment of legislation, and the object sought to be achieved, be denied to court whose function is primarily to give effect to the real intention of the Parliament in enacting the legislation. Such denial would deprive the Court of a substantial and illuminating aid to construction. Therefore, departing from the earlier English decisions we are of the opinion that reports of the committee which preceded the enactment



of a legislation, reports of joint parliamentary committee, report of a commission set up for collecting information leading to the enactment are permissible external aids to construction. In this connection, it would be advantageous to refer to a passage from *Crawford on Statutory Construction* (p. 388). It reads as under:

“The judicial opinion on this point is certainly not quite uniform and there are American decisions to the effect that the general history of a statute and the various steps leading upto an enactment including amendments or modifications of the original bill and reports of legislative committees can be looked at for ascertaining the intention of the Legislature where it is in doubt; but they hold definitely that the legislative history is inadmissible when there is no obscurity in the meaning of the statute.”

In *United States v. St. Paul, M.M. Rly. Co.* [62 L Ed. 1130, 1134 : 247 US 310] it is observed that “the reports of a committee, including the bill as introduced, changes made in the frame of the bill in the course of its passage and the statement made by the committee



chairman in charge of it, stand upon a different footing, and may be resorted to under proper qualifications”. The objection therefore of Mr Singhvi to our looking into the history of the evolution of the section with all its clauses, the Reports of Mudiman Committee and K. Santhanam Committee and such other external aids to construction must be overruled”.

10. The Rule of purposive construction has been reiterated in case of **N. Kannadasan and others** (supra), paragraphs 58 and 61 of which read thus:-

“58. In Bhudan Singh V. Nabi Bux this Court held: (SCC p.485, para 9)

“9..... The object of every legislation is to advance public welfare. In other words as observed by Crawford in his book on Statutory Constructions that the entire legislative process is influenced by considerations of justice and reason. Justice and reason constitute the great general legislative intent in every piece of legislation. Consequently where the suggested construction operates harshly, ridiculously or in any other



manner contrary to prevailing conceptions of justice and reason, in most instance, it would seem that the apparent or suggested meaning of the statute, was not the one intended by the lawmakers. In the absence of some other indication that the harsh or ridiculous effect was actually intended by the legislature, there is little reason to believe that it represents the legislative intent.”

61. In *New India Assurance Co. Ltd. V. Nuli Neville Wadia*, this Court held: (SCC p.297, para 52)

“52. Barak in his exhaustive work on ‘Purposive Construction’ explains various meanings attributed to the term ‘purpose’. It would be in the fitness of discussion to refer to Purposive Construction in Barak’s words:

‘ Hart and Sachs also appear to treat “purpose” as a subjective concept. I say “appear” because, although Hart and Sachs claim that the interpreter should imagine himself or herself in the legislator’s shoes, they introduce two elements of objectivity: First, the interpreter should assume that the legislature is composed of reasonable



people seeking to achieve reasonable goals in a reasonable manner; and second, the interpreter should accept the non-rebuttable presumption that members of the legislative body sought to fulfil their constitutional dues in good faith. This formulation allows the interpreter to inquire not into the subjective intent of the author, but rather the intent the author would have had had he or she acted reasonably.’

(Aharon Barak, Purposive Interpretation in Law, (2007) at p. 87)”

11. There is no gainsaying that it was with a mission to effectuate parting with a percentage of their lands held by the Zamindars and rich farmers for the landless people in the country, the movement was started by Acharya Vinoba Bhave in 1951 by persuading wealthy landowners to voluntarily donate a proportion of their land. The movement was unique in its features and was a kind of ‘voluntary land reforms movement’ in the country. The movement was an appeal to remind the landowners of their sense of duty towards social justice by donating their lands for distribution among the landless. The movement initiated by Acharya Vinoba Bhave was termed as ‘Bhoodan Yagna’. ‘Bhoo’ in Sanskrit means land and ‘Daan’,



gift. 'Yagna' is a Sanskrit word which means devotion, worships, sacrifice, offering etc. The concept of acquisition of land through the movement and distribution of the land received in gift from land owners among the landless was based on the idea, as Acharya Vinoba Bhave himself noted, that the land is the mother of all and everyone has a right to serve it. The landless have an equal claim to it. He had envisioned that land is free gift of the nature which like air and water belongs to no individual but to God and everyone is entitled to share it and enjoy its yields. With this vision in mind, the initial object of the Bhoodan Movement was conceptualized to secure voluntary donation of the land and then to distribute them to the landless. There were two predominant components of the movement; viz., (i) collect land as gift from zamindars and rich farmers, and (ii) redistribute the gifted/donated land among the landless farmers. The movement had two chief objectives ;-(i) To bring about a social order based on equality of opportunities by ensuring balanced economic distribution and (ii) Decentralization of economic holdings and powers in a manner that the power is decentralized from village to village, everyone should have a right on land and property and there should be no discrimination in the matter of wages etc. In order to streamline the process of



receiving donation by persuading Zamindars and rich farmers for donation of lands and for the purpose of distribution among the landless, 'Pradesh Bhoodan Committees' were created in each region with local committees and individual social workers at grass root level. Acharya Vinoba Bhave himself and his followers carried out '*Padayatra*', i.e., walking on foot from village to village, in order to persuade the larger landowners to donate at least one-sixth of their lands. The movement had a target of acquiring 50 million acres equivalent to 1/6th of the total cultivable land in India. Once a *Zamindar/rich* farmer gifted or donated a land in favour of the movement, the Bhoodan Workers were required to prepare a deed to be forwarded to Acharya Vinoba Bhave himself. Bhoodan Workers had to take help of Gram Panchayat and village Patwari to survey the beneficiaries and productivity of the lands. The first preference was to be given to the landless agricultural labourers and then to farmers with insufficient land. A date was to be fixed for all the villagers of the village to assemble together for giving the beneficiary families, the lands acquired in Bhoodan Movement. Those who received the donations were required to sign on a printed application, making a request for land, whereafter they were to be presented with the certificates



(*Pramanpatra*) of having received the land. In the said scheme of Bhoodan Movement, the beneficiaries were expected to cultivate the land for at least 10 years with a condition that they must start cultivating within three years of the receipt of the lands. There were rules/procedure, prescribing relaxation, keeping in mind the local conditions and cultures.

12. Bipin Chandra, a noted historian, writes in his book *India Since Independence* commenting on the significance of the movement aiming agrarian reforms in the Country as follows:-

“Vinoba Bhave organized an all-India federation of constructive workers, the Sarvodaya Samaj, which was to take up the task of a non-violent social transformation in the country. He and his followers were to do padayatra (walk on foot from village to village) to persuade the larger landowners to donate at least one sixth of their lands as bhoodan or ‘land gift’ for distribution among the landless and the land poor. The target was to get as donation 50 million acres, which was one-sixth of the 3000 million acres of cultivable land in India. The idea was that each average family of five should give up to one-sixth of their land accepting the poor landless man as a member of the family.

There were, however, some very significant aspects of the Bhooda Movement that need to be noted. First,



the very fact that it was one of the very few attempts after independence to bring about land reform through a movement and not through government legislation from the top is in itself very significant. Second, the potential of the movement was enormous, based as it was on the idea of trusteeship or that all land belonged to God. If the landlords failed to behave as trustees or as 'equal' sharers of property, then a satyagraha, in the Gandhian mould, could be launched against them."

13. It is possibly first of its kind in the Indian history, after the country gained independence, that for fulfilling the philanthropic 'desire' of a living man, the Bhoodan movement was given statutory status with enactment of laws in different States. In the State of Bihar, Bhoodan Yagna Act, 1954 was enacted to facilitate the donation of lands in connection with the Bhoodan Yagna initiated by Shri Acharya Vinoba Bhave and to provide for the settlement of such lands with landless persons or with a village community, Gram Panchayat, or with a Co-operative Society, organized by the Bhoodan Yagna Committee (see the preamble of the Act). The desire of Acharya Vinoba Bhave that lands donated to him in connection with Bhoodan Yagna should be transferred to the Bhoodan Yagna Committee, was acknowledged in the preamble of the Act itself, as one of the objectives for its enactment.



14. The movement initiated by Shri Acharya Vinoba Bhave for Bhoodan Yagna finds its definition in Section 2(a) of the Act, which means the movement initiated by him for acquisition of land through voluntary gifts with a view to distribute it to landless persons or to a village community, Gram Panchayat or a Co-operative Society organized by the Committee. The Act defines 'landless persons' under sub-section (d) of Section 2 of the Act, which has been quoted hereinabove.

15. Clause (ii) of sub-section (d) of Section 2 of the Act has recently been amended in 2016 by Amendment Act, 19 of 2016, by substituting the following:-

“2(ii) For the purpose of Bihar Bhoodan Yagna Act 'landless person' means a person who fulfills following criterion to be the landless person determined by the State Government:-A person who holds up to one acre or less land).”

16. The Act stipulates the establishment of the Bihar Bhoodan Yagna Committee to administer all lands for the purpose of Bhoodan Yagna in accordance with the provisions of the Act. At this juncture, Section 13 of the Act needs to be taken note of which stipulates that right title and interest of the donor



in any land donated to Shri Acharya Vinoba Bhave or to the Bhoodan Yagna Committee shall, on confirmation of the Bhoodan Yagna *Danpatra* in respect of that land, stand transferred to, and vested in the Committee for the purposes of the Bhoodan Yagna, with effect from the date of the donation. Section 13 of the Act, thus, gave statutory recognition to the donations of lands made to Acharya Vinoba Bhave, prior to commencement of the Act, consequent upon which the said lands stood transferred to and vested in the Committee constituted under Section 3 of the Act. Section 12 of the Act recognized donation of the land to Acharya Vinoba Bhave by a proprietor or tenure holder whose estate or tenure vested in the State under Bihar Land Reforms Act, 1950 and contemplates that any land comprised in such estate or tenure, a declaration in writing purporting to donate the land shall be treated as Bhoodan Yagna *Danpatra* and the provisions of the Act shall apply *mutatis mutandis* in respect of lands donated under such Bhoodan Yagna *Danpatra*, as they apply in respect of donation of land made after the commencement of this Act. Sub-section (2) of Section 12 of the Act prescribes that after such Bhoodan Yagna *Danpatra* is confirmed in respect of any land comprised in any such estate or tenure then notwithstanding anything



contained in the Bihar Land Reforms Act, 1950, such land shall be excluded from such estate or tenure for purposes of assessment and payment or compensation under that Act and the provisions of Section 13 shall apply to such land. (Emphasis added)

17. Sections 10 and 11 of the Act constitute the main body of the Act and prescribe the working of the process of donation and confirmation of donation in favour of the Committee. Considering the significance of the said two provisions, they are being reproduced herein below:-

“10. Donation of land.- (1) Any person being the owner of any land may donate such land to the Bhoodan Yagna Committee or to Shri Acharya Vinoba Bhave by a declaration in writing in that behalf (hereinafter called the Bhoodan Yagna Danpatra);

Provided that no person shall, for the purposes of this Act, be entitled to donate any land of the following classes, namely;-

- (a) any cremation or burial ground, tank or pathway;
- (b) lands recorded in the records of rights as gair mazrua-aam;
- (c) lands held under service tenures;
- (d) any forest land notified under any



of the provisions of the Indian Forest Act, 1927 (xvi, 1927), or the Bihar Private Forests Act, 1947 (Bihar Act ix, 1948);

(e) lands containing mines and minerals, whether discovered or undiscovered or whether being worked or not; and

(f) any other land which the State Government may, by notification in the Official Gazette, specify;

(2) Bhoodan Yagna Danpatra shall be filed before the Revenue Officer appointed under this Act as soon as it is made.

11. Publication of, and investigation upon the, Yagna Danpatra.-(1) On receipt of the Bhoodan Yagna Danpatra the Revenue Officer shall cause the same to be published in the prescribed manner inviting written objections thereto within a period of thirty days from the date of publication.

(2) If no written objection is filed within the period mentioned in sub-section(1), the Revenue Officer shall make a summary inquiry in the prescribed manner as to the right, title and interest of the donor in such land and his competency to make a gift.

(3) If any written objection is filed within the period mentioned in sub-section (1), the Revenue Officer shall register such objection and fix a date of hearing of which a public notice shall be given in the prescribed



manner and a copy of such notice shall be served on the donor and the objector by registered post with acknowledgment due and on the date so fixed, the Revenue Officer shall hear the donor and the objector.

(4) After holding the summary enquiry under sub-section (2) or after hearing the donor and the objector under sub-section (3), as the case may be, the Revenue Officer may supersede the Bhoodan Yagna Danpatra in whole or in part on any of the following grounds, namely;-

(i) that the donor is incompetent to make a gift;

(ii) that the title of the donor is defective;

(iii) that the donor is not a person entitled to donate the land under the provisions of Section 10 or Section 12.

(5) If the Bhoodan Yagna Danpatra is not superseded in whole or in part under sub-section(4), the Revenue Officer shall confirm it in whole and if it is superseded in part, he shall confirm it in respect of the part which is not superseded.

(6) The donation of the land in respect of which the Bhoodan Yagna Danpatra is superseded shall be cancelled and the right, title and interest of any person in such land before the date of the Yagna Danpatra shall



not be affected in any manner.

(7) The Revenue Officer shall, in the hearing and disposal of objections under this section, have the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (V of 1908), in respect of the following matters, namely;-

(a) summoning and enforcing attendance of witnesses and examining them on oath;

(b) requiring the discovery and production of any document;

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any Court or office;

(e) issuing commission for examination of witnesses;

and such proceeding before the Revenue Officer shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 and for the purposes of Section 195 of the Indian Penal Code, 1860 (XLV of 1860).

(8) The Collector may at any time transfer a petition filed under sub-section (2) to any other Revenue Officer, within his jurisdiction, for disposal.”

18. On bare reading of the aforesaid two provisions, it



can be easily culled out that any land held by a person other than the nature of land as prescribed in the proviso to sub-section (1) of Section 10 of the Act can/could be donated to the Bhoodan Yagna Committee or to Shri Acharya Vinoba Bhave by a declaration in writing in that behalf. A 'declaration in writing' of donation of land as contemplated under Section 10 of the Act is called '*Danpatra*'. Sub-section (2) of Section 10 of the Act requires the '*Danpatra*' to be presented before a Revenue Officer appointed under the Act, as soon as it is made. The Revenue Officer has been defined under Section 2(f) of the Act as the Collector, Additional Collector, Sub-Divisional Officer, Additional Sub-Divisional Officer or any officer not below the rank of Sub-Deputy Collector appointed by the State Government to discharge any of the functions of the Revenue Officer under the Act. Section 11 of the Act casts a duty on the Revenue Officer to invite written objections to *Danpatra* by publication in prescribed manner, to be submitted within thirty days from the date of publication of the notice. In case no written objection is filed within the period prescribed in sub-section (1), it is the duty of the Revenue Officer to make a summary enquiry in a manner prescribed as to the right, title and interest of the donor in such land and his competency to make a



gift. Sub-section (3) of Section 11 of the Act deals with a situation where, an objection against the *Danpatra* is filed within the period prescribed and in such situation, the provision requires the Revenue Officer to fix a date for hearing of the objection, after service of notice on the donor and to hear the donor and the objector, on the date so fixed. Sub-section (4) confers upon the Revenue Officer the jurisdiction to supersede *Danpatra* in whole or in part, after holding summary enquiry under sub-section (2) or after hearing the donor and objector under sub-section (3) on three specified grounds, namely;- (i) the donor is incompetent to make a gift; (ii) the title of the donor is defective; and (iii) the donor is not a person entitled to donate the land under the provisions of Section 10 or Section 12 of the Act. If *Danpatra* is not superseded in whole or in part under sub-section (4), the Revenue Officer has an obligation to confirm it. It is envisaged in Sub-section(6) that donation in respect of which *Danpatra* has been superseded shall be cancelled and the right, title and interest of any person in such land before the date of the *Danpatra* shall not be affected in any manner. Sub-section (7) of Section 11 of the Act confers upon the Revenue Officer under the Act to have the powers of Civil court while trying a suit under the Code of Civil Procedure, in



respect of the matters indicated therein. It further states that proceeding before the Revenue Officer shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 and for the purposes of Section 195 of the Indian Penal Code. The provisions under Section 12 read with Section 13 of the Act deal with vesting of land in the Bhoodan Yagna Committee after confirmation by the Revenue Officer. Section 14 of the Act deals with the process for grant of land to the landless persons, which is the main goal of Bhoodan Movement and the Act which reads thus:-

Section 14 - Grant of land to landless persons

(1) The Committee or such other authority or person, as the Committee may specify, either generally or in respect of any local area, in the prescribed manner, may, [subject to sub-section (2) grant lands which have vested in the Committee to landless persons ²[or to a village Community, Gram Panchayat, or a Co-operative Society] organised by the Committee] and the grantee of the land shall acquire the same right, title and interest as the donor had in such land: Provided that—

(i) in case the donor's interest in such land was that of a proprietor or tenure-holder as defined in the Bihar Land Reforms Act, 1950



(Bihar Act XXX of 1950), the grantee's right, title and interest shall be that of an occupancy raiyat liable to pay rent to the State Government;

(ii) in case the estate or tenure, as the case may be in which such land is situated has vested in the State under the said Act, the right, title and interest of the grantee shall also be subject to the provisions of that Act; and

(iii) in case such land has vested in the Committee under Section 12, the right, title and interest of the grantee shall be that of an occupancy raiyats liable to pay rent to the State Government;

Provided further that—

(i) grantee, his heirs, assigns or successor-in-interest shall not be competent to sublet or transfer the land or any portion thereof by sale, gift or otherwise, but shall be competent to transfer the same by exchange with the previous permission of the Committee in writing ; and

(ii) the rights of the grantee over such land shall be subject to such other restrictions and conditions as may be



prescribed [by the Committee].

Provided also that the grantee,
his heirs, assignee, or

successors-in-interest may enter into a simple mortgage for raising loan for agricultural purposes in respect of land with a bank or society registered or deemed to be registered under the Bihar Co-operative Societies Act, 1935 (Bihar and Orissa Act VI of 1935) or with the State Bank of India or a bank specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Act V of 1970) or with a company or a corporation owned by or in which not less than fifty-one percent of the share capital is held by the State Government or the Central Government or partly by the State Government and partly by the Central Government and which has been set up for raising loan for agricultural purposes].

(2) All grants shall be made as far as may be in accordance with the scheme of Bhoodan Yagna as may be prescribed;



Provided that in making grants of waste lands in the districts of Santhal Parganas which have vested in the Committee the principle prescribed for settlement of waste lands under Section 2.8 of the Santhal Parganas Tenancy (Supplementary Provisions) Act, 1949 (Bihar Act XIV of 1949), shall be followed.

(2) For the purpose of grant of lands under this section, the Committee may, by regulations, fix after taking into consideration the quality of lands, the maximum and minimum areas to be granted to a landless person or to a village community, Gram Panchayat or a co-operative society organised by the Committee] and different areas may be fixed for different districts, sub-divisions or than as.

Explanation.—For the purposes of this section, "occupancy raiyats" means a raiyats having a right of occupancy in the land held by him [within the meaning of the tenancy law of the area in which it is situated].”

19. Section 14 of the Act confers upon the Committee or any other authority or a person, specified by the Committee either generally or in respect of any local area to grant lands



which have vested in the Committee to 'landless persons' or to a village community, Gram Panchayat, or a Co-operative Society organized by the Committee. It further stipulates that the grantee of the land under sub-section (1) of Section 14 shall acquire the same right, title and interest as the donor had in such land but shall not be competent to sublet or transfer the land otherwise, but shall be competent to transfer the same by exchange with the previous permission of the Committee in writing, apart from, as contemplated under Clause (i) of second *proviso* to sub-section(1) of Section 14. The third *proviso* to Section 14 of the Act allows a grantee, his heirs, assignee, or successors-in-interest to enter into a simple mortgage for agricultural purposes in respect of the land with a bank or society registered. It needs to be added that in terms of Section 14 of the Act, right, title and interest of the grantee is that of the occupancy raiyat having right of occupancy in the land held by him within the meaning of the Tenancy Laws of the area in which the land is situated. Section 15 contemplates a situation where the land has been donated in writing for the purpose of Bhoodan Yagna, prior to commencement of the Act and requires that Danpatra in such cases concerning the lands shall be forwarded by the Committee to the Revenue Officer of the local



area within which the land is situate and the provisions of the Act shall apply mutatis mutandis, in respect of the land donated under such *Danpatra* as they apply in respect of donation of land made after the commencement of this Act. Sub-section (3) of Section 15 of the Act is a deeming clause and declares that if such land as contemplated under Section 15(1) of the Act has been granted to any person in pursuance of Bhoodan Yagna before the commencement of the Act, it shall, with effect from the date of grant, be deemed to have been granted to such person under Section 14, subject to the restrictions and conditions imposed thereunder. Section 16 stipulates that when any land is vested in the Committee under sub-section (1) of Section 13, the Committee may, for the period intervening between the date of its vesting and the date of its grant, settle it with any person, who has the means to cultivate the land and is willing to do so, for the purposes of cultivation, for such period and on such terms and conditions as may be prescribed. The proviso to sub-section (1) of Section 16 states that if during the interregnum period, as envisaged in sub-section (1), the Committee has not settled such land with any person and the donor has continued in possession and enjoyed the usufruct of the land, the donor shall be deemed to be the settlee thereof during the period intervening



the date of its vesting and the date of its grant under Section 14 of the Act. An order under Section 11 of the Act which deals with confirmation/supersession of *Danpatra* made by the Revenue Officer is subject to appeal under Section 17 (1) (b) of the Act to the Commissioner of the Division, if the order was passed by the Collector and to the Collector, if such order was passed by any other Officer. Clause (a) of sub-section (1) of Section 17 deals with the provisions of appeal against order passed by the Revenue Officer under Sections 18,21 and 22 of the Act, which I shall deal with later. Sub-section (2) of Section 17 declares that any order passed by the Revenue Officer, subject to the result of the appeal shall be final. Sub-section (4) of Section 17 is a significant provision which enables any party aggrieved by the order or any person interested in the land, to institute a suit in the Civil Court having jurisdiction for setting aside the order, within six months of passing of the order under Section 17(1) of the Act.

20. Section 17 A confers upon the Board of Revenue or the Divisional Commissioner, power to call for and examine the records of any case pending before or disposed of by such authority or officer, for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any order. Section



17 B of the Act says that in the performance of the duties and in exercise of the powers under the Act, the Revenue Officer shall be subject to general direction and control of the Collector of the district, Commissioner and the Board of Revenue. Section 19 prescribes that any person or the village community, Gram Panchayat, or a Co-operative Society organized by the Committee to whom land has been granted under Section 14 or is deemed to have been granted under sub-section(3) of Section 15 shall, at the instance of the Committee be recorded as a Bhoodan tenant in the rent-roll of the landlord and such rent-roll shall include the following:-

- (i) the area and description of the land;
- (ii) the name of the Bhoodan tenant;
- (iii) the amount of rent of the land fixed by the Revenue Officer by distribution of rent or otherwise;
- (iv) the mode in which the rent has been fixed;
- (v) the mode in which the Bhoodan tenant belongs;
- (vi) the name of the landlord; and
- (vii) any other particulars that may be prescribed;

21. On conjoint reading of Sections 17 and 17A of the Act, it can be easily gathered that an order of a Revenue Officer is subject to appeal before Commissioner/Collector and there is



provision for revision under Section 17A of the Act before the Commissioner/Board of Revenue. Sub-section (4) of Section 17 of the Act permits any party aggrieved to institute a suit in the Civil Court having jurisdiction.

22. Section 25 of the Act confers upon the State Government, power to make Rules for the purpose of carrying out the provisions of the Act. In exercise of the said power the State Government has framed the Rules in the name of “Bihar Bhoodan Rules, 1955”. The Rules prescribe, inter alia, schedule of forms stipulated under Rule 3(2), 3(3), 4(1), 6A and Section 18(2) of the Act. A register in Form-I of Bhoodan Yagna *Danpatra* filed before the Revenue Officer is required to be maintained. Form III refers to a register of objections filed before the Revenue Officer. Form IV refers to public notice of objection under Rule 4(1) for the purpose of hearing by the Revenue Officer of the objector and the landowner. An undertaking to the State Government in writing under Section 12 of the Act by a proprietor or tenure holder, foregoing compensation is to be given in Form VI or the Rules.

23. The scheme of the Act and the Rules framed thereunder have been dealt with in the present judgment in detail not only in the background of factual aspects of the present case



and the legal issues involved herein to adjudicate upon the merits of the case but also because the Court has noticed in course of the present proceeding a substantial degree of lack of desired approach of the respondents, towards sincere implementation of the provisions of the Act, enacted as a sequel to a voluntary land reforms movement, aiming at social justice for the landless agricultural workers.

24. Coming back to the facts of case, this is not being disputed by either of the parties that the land was donated by ex-landlord late Gopeshwar Prasad Sahi, one of the biggest landlords of this State. The land in question, is situate in the native village of the petitioners and the contesting respondents. Whether the land was donated before or after coming into force of the Act is not evident, however.

25. Bhoodan Yagna Committee had issued certificates in favour of the contesting private respondents in the year 1959, which is also not in dispute. This is also not in dispute that the grantees possessed substantial land. As is evident from the orders passed by the authorities under the Act, their stand has been that the land falling in their share out of the joint family property would be less than the area prescribed under Section 2(d) of the Act, as the same existed prior to amendment in the



Act in 2016. The claim of the petitioners that they have no land, on the other hand has not been disputed.

26. Taking a pause here, I need to go back to the very idea behind Bhoodan Yagna, which has already taken note of and reiterate that first preference was aimed to be given to 'landless agricultural labourers' and then 'to farmers with insufficient land'.

27. Who can be said to be a landless person within the meaning of Section 2(d) of the Act is a significant question which I need to deal here itself. The definition of landless person as it stood before the amendment in 2016 stipulated that landless person is one whose main source of livelihood is agriculture or agricultural labour or who undertakes in writing to employ himself on the lands granted to him under the Act. Clause (ii) of sub-section (d) of Section 2 of the Act is clear in its language while stating that a landless person was one 'who did not hold any land' or 'holds such areas of land not exceeding five acres as may be prescribed by the Committee'. A person having no land would be a landless person within the meaning of Section 2(d) of the Act, over which there cannot be any controversy. The controversy would arise if a person having land within five acres claims to be landless, taking aid of Clause



(ii) of sub-section (d) of Section 2 of the Act. As is evident from the language of the provisions itself, it enables Bhoodan Yagna Committee to prescribe area of land 'not exceeding which' a person holding land, can be held to be landless. In the absence of the decision of the Committee, only with reference to Clause (ii) of sub-section (d) of Section 2, a person cannot be said to be a landless person within the meaning of the Act even if holds upto five (5) acres of land, in my considered view. No decision of the Committee has been brought to my notice which lays down that persons holding land up to five acres can be held to be landless for the purpose of the Act. The question whether the contesting private respondents could be held to be landless, at the time of settlement, in their favour in the year 1959 will have to be addressed in this perspective.

28. In view of the above noted discussion, I do not have any iota of doubt in my mind that the purpose of Bhoodan movement was to ensure distribution of land to primarily such persons who, though depended on agriculture for their livelihood but held no land at all. The Act, however, enabled the Committee to fix area of land upto five acres, keeping in mind the ground realities, relating to productivity of land and capacity of a person to cultivate.



29. There is yet another aspect that is not only relevant but is of immense significance which cannot be lost sight of. It is interesting to note that the Deputy Collector Land Reforms in his order dated 16.12.1989 has referred to Section 2(d) (ii) of the Act as it existed prior to amendment to hold that persons holding land up to five acres were eligible to receive grant as landless under Section 14 of the Act. He has not referred to any decision of the Committee as stipulated under the said provision, prescribing maximum area of land which a person might hold for him to come within the definition of a landless person. The said finding of the Deputy Collector Land Reforms is, in my opinion palpably erroneous, for the reason that in the absence of any decision on record of the Committee fixing upper area of land as stipulated under the Act, the Deputy Collector could not have held the private respondents landless, though they admittedly held some land.

30. Further, The Deputy Collector Land Reforms, in his said order dated 16.12.1989 has mentioned that there is nothing on the records maintained by the Committee to show that the *Danpatra* in question, in respect of the disputed land was ever confirmed under Section 11(5) of the Act. I have already dealt with the statutory provisions under Section 11 of the Act, sub-



section (5) of which deals, *inter alia*, with the confirmation of *Danpatra*, if not superseded under sub-section (4). The Deputy Collector Land Reforms has held that unless *Danpatra* was confirmed, any distribution by the Committee would be an invalid exercise. This is the reason supplied by him for holding the action of the Committee of cancelling the previous settlement in the year 1959 in favour of the contesting respondents and settling the land in favour of the petitioners, illegal. He, however, held that since '*Jamabandi*' had been created in the name of the contesting private respondents, the land in question was not free from dispute for the Committee to have acted by cancelling earlier settlement and issuing certificates in favour of the petitioners. He apparently held that grant in favour of the contesting respondents was illegal, which finding has not been dealt with by the Divisional Commissioner in his impugned order.

31. The Additional Collector, in his order dated 29.05.1990 passed in Appeal No. 32 of 1989-90, has referred to an order-sheet dated 04.01.1990 of the Bhoodan Land Confirmation Record Nos. 76-77 which indicated, that *danpatra* in respect of lands in question, had been confirmed, except in respect of the land appertaining to Keshra No. 438. The



Additional Collector reversed the finding of the Deputy Collector on this ground and for other reasons also, as mentioned in his order dated 29.05.1990. The order of the Additional Collector though indicates that the *Danpatra* was confirmed but it does not indicate that the same was confirmed before issuance of *pramanpatra* in 1959, in favour of the private contesting respondents. The Commissioner, vide his order dated 18.04.1991 passed in Rent Fixation Revision No. 14 of 1990-91 allowed the revision petition, set aside the order of the appellate authority, i.e. the Additional Collector dated 29.05.1990 and confirmed the order dated 16.05.1999 of the Deputy Collector Land Reforms in following terms:-

“Considering all facts and circumstances of the case I find that the Bhoodan Yagna Committee had firstly given the lands and Pramanpatra in the name of petitioners and on the basis of it, the C.O. Bhorey and D.C.L.R, Gopalganj fixed the rent and Jamabandi was opened. Rent is also being paid. The disputed lands are in possession of petitioners according to Circle Officer, Bhorey.

It is not clear that how and under what law, the Bhoodan Committee cancelled its own papers and granted fresh Pramanpatra to respondents. The



Committee has not given any provision of law to transfer the possession from Nathuni Bhagat to respondent Jhulan Baitha and others.

The learned lawyer on behalf of petitioners, has strongly argued that Bhoodan Committee had no authority under law to cancel the certificate granted previously to petitioners. The power of cancellation vests under law in revenue authority and not to Bhoodan Committee vide section 21 of the Bihar Bhoodan Yagya Act, 1954.”

32. Unfortunately, even the Commissioner did not bother to deal with the observations made by the Deputy Collector in his order dated 16.12.1989 wherein he had recorded that *Danpatra* was not confirmed. The Additional Collector had taken note of this aspect and had recorded that *Danpatra* was in fact confirmed in the year 1990. The Commissioner recorded in his order that the Committee did not refer to any provision of law to transfer possession from Nathuni Bhagat to the respondents in that case, Jhulan Baitha (petitioners herein) and others. The Commissioner further recorded that the respondents did not submit any law point or provision of law to show that Bhoodan Committee had got jurisdiction to cancel



Danpatra, without examining the question, how the Committee could issue *pramanpatra* in the absence of confirmation of the *Danpatra* under the Act. The said order of the Commissioner is under challenge in the present writ application.

33. The orders passed by the authorities under the Act reflected a casual and cavalier approach, while dealing with a sensitive issue of providing land acquired during the Bhoodan Yagna Movement and subsequently under Bihar Bhoodan Yagna Act, 1954, to the landless. A land donated by a *Zamindar* was settled by the Committee in favour of the persons who could not be held to be landless and at least ignoring the better claims of those who had no land or much less land than those in whose favour the Committee had issued *pramanpatra*. In my view, it would be an understatement, if the act of issuance of *Pramanpatra* by the Committee in 1959 in favour of the private respondents is simply said to be 'not in conformity' with the provisions of law. No statutory prescription envisaged under the Act appear to have been followed. It was perplexing for this Court to note that *Danpatra* issued in order before 1959 by the *Zamindar* was not found to have been confirmed. These are the facts which have constrained me to form an opinion that the pious wish with which Bhoodan Yagna was launched, which



movement subsequently took the shape of legislative enactment declaring clearly its aims and objectives in the preamble of the Act, has not been given due regard as it deserves/deserved.

34. The Court was therefore compelled to take a holistic view of the matter and accordingly, the Committee was, directed to furnish to this Court details of total Bhoodan land acquired, confirmed, unconfirmed and distributed, in the State of Bihar.

35. An affidavit was accordingly filed on 31.07.2015 by the Chairman of the Committee, paragraphs 3 and 4 of which read thus:-

“3. That as per the direction of this Hon’ble Court the descriptions of the total Bhoodan Land, total confirmed/unconfirmed/distributed land is hereby annexed as Annexure-A series to this supplementary affidavit.

4. That the Bihar Bhoodan Yagya Committee has received total land of 648593.14 acres of land out of which 345380.85 Acres are confirmed land. About 256392.39 Acres land has been distributed whereas 6055.09 Acres of land remains to be distributed. About 386145.66 Acres of land are unfit for distribution.”



36. It is manifest from the statement made in paragraph 4 of the supplementary affidavit filed by the Chairman, Bihar Bhoodan Yagna Committee, 303212.29 acres of land donated under the Bhoodan Movement/Act have not been confirmed under sub-section (5) of Section 11 of the Act. On conjoint reading of sub-section (4) and sub-section(5) of Section 11 of the Act, it can be easily seen that such *Danpatra* which is not superseded under sub-section (4) of Section 11 of the Act has to be confirmed under sub-section(5) of the Act. It is the duty of the Revenue Officer to confirm Bhoodan Yagna *Danpatra*, if not superseded under Section 11(4) of the Act. Sub-section (6) of Section 11 as has been noticed above, which provides that a Bhoodan Yagna *Danpatra* superseded under sub-section (4) of Section 11 of the Act shall be cancelled and right, title and interest of any person in such land before the date of *Danpatra* shall not be affected in any manner. It is not clear from the affidavit filed on behalf of the Committee as to how the area of land donated under Bhoodan Movement/Act beyond 345380.85 acres of land have not been confirmed. Is it because of non-compliance of the provision under Section 11 of the Act or as consequence of any decision taken by the Revenue Officer as contemplated under Section 11 of the Act.? This is an aspect



which would need an in depth enquiry for two reasons; firstly, area of lands received in donation is substantial and secondly, land donated under the Act is to be set off under the first proviso to Section 28 of the Bihar Land Reforms (Fixation of Ceiling Area & Acquisition of Surplus Land) Act, 1961. Are their cases where landholders have, on the one hand availed set off under the proviso to Section 28 of the Act and on the other, retained the land on the ground of same having not been confirmed. Further, in my opinion, if mere lapse on the part of the Revenue Officer in taking steps for confirmation of *Danpatra* under Section 11 of the Act is the reason for treating the *Danpatra* as not confirmed, ways and means to regularize such *Danpatra*, if legally permissible, even by way of legislation, is required to be worked out.

37. The Bhoodan Yagna Committee has submitted a detailed report disclosing total area of land donated by landowners in the movement, the *Danpatra* confirmed and superseded. It is noteworthy that the Bihar Bhoodan Yagna Committee has also submitted a report to this Court giving in considerable detail the lands donated, confirmed, distributed etc. The said report also refers to such *Danpatras* which have been cancelled. It transpires from the said report that *Danpatra* in



respect of 1,46,901.21 acres (approximately) of land have been superseded. Details are also there with respect to lands donated in respect of which matters are pending in the Courts. It also transpires that lands are still available for distribution. These aspects, in my opinion, being of great significance I had made an observation that a high level Enquiry Committee should be constituted to make an in depth enquiry in respect of the lands acquired under Bhodan movement and their present status. The Department of Revenue had filed an affidavit disclosing the intention of the Government of Bihar to constitute a Committee to enquire into the matters with following tentative terms of reference:-

“i. To make enquiry with regard to lands donated to Bhodan Yagna Committee, their status, whether the lands were distributed or not, and if not distributed then what is the status of such lands presently.

ii. Status of confirmation of Bhodan Land Dan Patras and reasons for their non-confirmation.

iii. Whether Bhodan Lands have been distributed as per provisions laid down in the Bihar Bhodan Yagna Act, 1954 and its corresponding Regulations.



iv. Whether lands distributed among the landless persons and others have been cancelled by the Bihar Bhoodan Yagna Committee on its own, without the prior approval of the concerned Revenue Officers and whether laid provisions were followed in redistribution of such lands.

v. Status with regard to the distribution of Government lands by the Bihar Bhoodan Yagna Committee, without confirmation of dan Patras and status of disputes caused by the distribution of Government land by the Bihar Bhoodan Yagna Committee.

vi. Feasibility of continuing the Bihar Bhoodan Yagna Committee. In case, the above committee is disbanded what would be mode of maintenance and regulation of Bhoodan Lands.”

38. From subsequent affidavits filed on behalf of the State of Bihar, it appears that in exercise of power under Article 166 (3) of the Constitution of India, Rules have been framed by the Revenue and Land Reforms Department of the Government of Bihar laying down constitution of an Enquiry Commission, terms and conditions of the Chairman and Members of the



Committee as well as functions of the said Commission, viz, Bhoodan Land Distribution Enquiry Commission (hereinafter referred to as 'the Commission'). The Commission has been constituted for a period of two years with the issuance of notification on 16.07.2018, which consists of the following:-

1. Mr. Ashok Kumar Choudhary, I.A.S. (retired)
2. Mr. Vinod Kumar Jha, Bihar Administrative Service (retired) and
3. Mr. Ram Vilash Paswan, Bihar Administrative Service (retired)

39. In addition to the terms of reference as noted above, in my opinion, the Commission should undertake the following exercise after carrying out a thorough survey:-

- (I) Identification of lands received through *Danpatras*,
- (II) Identification of lands so far distributed with reference to respective *pramanpatras*
- (III) Identification of lands donated but not confirmed.
- (IV) Identification of lands with confirmed *Danpatras*, fit to be distributed.
- (V) The Committee has stated in one of its affidavits that a huge area of land received in donation have been found to



be unfit for distribution. Let Commission undertake an exercise to find out those lands, their present location and possible use in public interest for the benefit of village community, Grampanchayat or co-operative society, as contemplated under Section 14 of the Act.

(VI) In such cases where *Danpatras* have not been confirmed, examine whether the donors have availed benefits in the name of such donations in any manner and are still in possession over the lands so donated?

40. It is almost a year since the Commission has been constituted. The Court would like to know the stage of enquiry.

41. So far as the merit of the present case is concerned, in view of the observations which I have made in paragraphs 29 and 30 of the present order, the impugned orders passed by the Deputy Collector dated 16.12.1989 and the Commissioner dated 18.04.1991 are set aside and the matter is remanded back to him for considering the matter afresh in the light of the observation which I have been made in the present order, and pass an order afresh within a period of three months from the date of receipt/production of a copy of this order.

42. The Commissioner would be obliged to examine as to whether *Danpatra* in respect of the land in question, was



confirmed or not on date of issuance of pramanpatra in favour of the contesting respondents and whether settlement by the Committee in favour of the contesting respondents was made ignoring better claims of such person including the petitioners, who did not have any land at all.

43. This application is allowed with the aforesaid observations and directions.

44. List this matter on 24.07.2019, when an affidavit will be required to be filed on behalf of the State of Bihar to inform this Court, developments of the enquiry being conducted by the Commission.

(Chakradhari Sharan Singh, J)

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AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	01.07.2019
Transmission Date	N/A

