

AFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WP No. 1519 of 2005**

Food Corporation of India, through its Senior Regional Manager, Regional Office, Telibandha Chowk, Ring Road, Raipur (C.G). --- **Petitioner**

Versus

1. State of Chhattisgarh through the Secretary Department of Revenue Mantralaya, D.K.S. Bhawan, Raipur (C.G).

2. Commissioner, Chhattisgarh Housing Board, Division No.1, Behind Tatibandh, Hirapur, Raipur (C.G).

3. The Collector, Raipur, Chhattisgarh --- **Respondents**

For the Petitioner	:	Mr. R. S. Patel, Advocate
For the State/Respondent No.1	:	Mr. Kunal Das, Panel Lawyer
For the State / Respondent No.2	:	Mr. Shantam Awasthi, Advocate on behalf of Mr. Jitendra pali, Advocate
For the intervener	:	Mr. Aman Pandey, Advocate on behalf of Mr. Ashish Shrivastava, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Judgment/Order on Board****14.02.2020**

1. Challenge made in this petition is to the order dated 12.04.2005 (Annexure P-7) issued by the State of Chhattisgarh. The said letter was addressed to the Collector wherein the Collector was permitted to take possession of land of 100 acres from the Food Corporation and was further permitted to deposit premium of Rs.2,91,60,000/- and the land revenue of Rs.14,58,000/-. The letter purports that the Food Corporation holds the land ad-measuring 111.61 acres at village

Kapa, Patwari Halka No.109. Out of the said land, 100 acres of land was to be given to the Chhattisgarh Housing Board and 11.61 acres was to be kept with the Food Corporation. It further purports that the lay out would be prepared by the Housing Board for the total extent of land of 111.61 acres including the land of 11.61 acres which was to be kept reserved for the Food Corporation. The letter further purports that in lieu of the land received by the Chhattisgarh Housing Board, the Board will give the government land of about 70 acres situated at village Sejbahar P.H. No. 119, for which the allotment would be made to the Food Corporation at the expense of the Housing Board. It further purports that according to the guidelines 2004-2005, the price of both the lands would be fixed and the roads would be developed on it.

2. The Food Corporation of India (petitioner herein) has challenged the aforesaid direction issued by the State. The ground of challenge, as pleaded, is that the Petitioner Corporation is a body corporate and is constituted under the Food Corporation Act, 1964 and the general superintendence, direction and management of the affairs and business of the Corporation vests in the Board of Directors which exercise all such powers and do all such acts and things as may be exercised or done by the Corporation under the aforesaid Act. It further purports that as per section 37 of the Act, the FCI may delegate the powers by general or special order to the Chairman or any other Member of the Board of Director or the Secretary or other Officer of the Corporation with certain conditions and limitation as may be specified in the Order, as it may deem necessary. The further pleading has been made to the effect that pursuant thereto, the delegation of power was made to the Managing Director for purchase of land/acquisition as on 31.03.1993, which implies that no officer other lower than the rank of the Managing Director can purchase or acquire the land on behalf of the Petitioner.

3. Further the pleadings have been made that the Corporation has purchased the land of 111.61 acres from defence and some part of it was purchased from the State at village Kapa in the year 1995-1996 for construction of grain storage depots and the entire land is surrounded by the boundary wall at a length around of 3 Kms, having different offices located therein. It is further stated that the lands were purchased by the FCI keeping in view of the further operational activities of the FCI, which includes nearby Railway siding and vehicular traffic which brings the food grains for the storage in the premises of the petitioner.
4. The petitioner further contended that pursuant to the Reorganization Act, 2000, the State of Chhattisgarh came into being and on 11.10.2004 a meeting was held in the Office of Collector wherein the Collector, representatives of the FCI i.e., Regional Manager and Deputy Manager and the representatives of the Chhattisgarh House Board had participated. In the meeting it was resolved to give 100 acres of land at village Kapa to the Housing Board for construction of residential colony and in lieu thereof, the FCI would get 70 acres of land at village Sejbahar. The pleading further purports that a communication though was made by FCI with head Office to finalise the deal, however, the same was not finalized and the petitioner's officers sought instructions from the Zonal Manager narrating the state of affairs. Subsequently the communication was made by the Officers of the FCI to the Chhattisgarh Housing Board to evaluate the land but eventually, as pleaded, the said initial resolution was not acted upon. Therefore, learned Counsel for the petitioner submits that the property of the Food Corporation of India cannot be done away with by few of the officers and the State Government without any authority cannot force the FCI to comply with the letter dated 12.04.2005 vide Annexure P-7 and dispossess the petitioner.

5. Per contra, learned counsel for the respondent Housing Board would submit that the issue is covered by the doctrine of promissory estoppel. He would submit that initially a meeting was held on 11.10.2004 (Annexure P-2) wherein the officers of the Food Corporation of India agreed to give 100 acres of land to the Housing Board which was signed by them and in such meeting the Collector and other Revenue Officers were also present along-with the officers of the Housing Board. Consequently having agreed to give the land of 100 acres to the Board, the petitioner Corporation cannot go back or withdraw its stand. He further submits that the Regional Manager, FCI was empowered to give land on behalf of the Food Corporation to the Housing Board. He further submits that the land was not being utilized by the Housing Board for 20-25 years, therefore, the decision to hand over the land was rightly taken.
6. Learned State Counsel would submit that the Collector has only organized the meeting wherein the agreement was entered into between the officers of the petitioner and the officers of the respondents to the effect that the land of 100 acres would be handed over to the Board and pursuant thereto a letter was issued, therefore, no fault can be attributed to the State.
7. Heard learned counsel for the parties and perused the documents. The Petitioner Food Corporation of India is incorporated under (The) Food Corporation Act, 1964. As per section 3 of the Act, 1964 the Corporation shall be a body corporate with the name aforesaid having perpetual succession and a common seal with power. Therefore, the Corporation would be a juristic entity which acts as body corporate through resolution. For the sake of convenience, section 3 of the Act is reproduced hereinbelow :

“3. Establishment of Food Corporation of India.--(1)

With effect from such date “as the Central Government may, by notification in the official Gazette, specify in this behalf the

Central Government shall establish for the purposes of this Act a Corporation known as the Food Corporation of India.

(2) The Corporation shall be body corporate with the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire hold and dispose of property and to contract and may, by that name, sue and be sued.”

8. Section 6 of the Act provides for Management of the Food Corporation. It purports that powers relating to general superintendence, direction and management of the affairs and business of the Corporation shall vest in Board of Directors which exercise all such powers and do all such acts and things as may be exercised or done by the Corporation under the Act, 1964. Section 7 speaks about Board of Directors which would include the Chairman, 3 directors from the Ministries of the Central Government dealing with (i) food, (ii) finance and (iii) cooperation. Section. Reading of Section 7(1)(c) shows that how the Board of Directors is constituted. For the sake of convenience, section 7 is reproduced herein below:

7. Board of Directors,-- (1) The board of directors of the Corporation shall consist of the following namely :--

- (a) Chairman
- (b) three directors to represent, respectively the Ministries of the Central Government dealing with –
 - (I) food
 - (ii) finance, and
 - (iii) co-operation
- (c) the Managing Director of the Central Warehousing Corporation established under section 3 of the Warehousing Corporation established under Section 3 of the Warehousing Corporation Act, 1962, ex-officio;
- (d) a managing director
- (e) six other directors

(2) All the directors of the Corporation other than the director referred to in Clause (c) of the sub-section (1) shall be appointed by the Central Government.

(3) The Managing Director, shall –

(a) exercise such powers and perform such duties as the Board of Directors may entrust or delegate to him, and

(b) receive such salary and allowances as the board of directors may, with the approval of the Central Government, fix ;

Provided that the first managing director shall receive such salary and allowances as the Central Government may fix.

(4) The term of office of, and the manner of filling casual vacancies among the directors of the Corporation other than the director referred to in Clause (c) of sub-section (1), and the other terms and conditions of appointment of the directors of the Corporation shall, subject to the provisions of sub-section (3), be such as may be prescribed.

9. Section 10 is about the meetings which purports that the Board of Directors of the Corporation shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be provided by the regulations made by the Corporation.
10. Section 13 of the Act 1964 prescribes the functions of the Corporation which reads as under:

“13. Functions of Corporation,- (1) Subject to the provisions of this Act, it shall be the primary duty of the Corporation to undertake the purchase, storage, movement, transport distribution and sale of food-grains and other food-stuffs.

(2) Subject to as aforesaid, the Corporation may also, with the previous approval of the Central Government,--

(a) promote by such means as it thinks fit the production of food-grains and other food-stuffs;

(b) set up, or assist in the setting up of rice mills, flour-mills and other undertakings for the processing of food-grains and other foodstuffs; and

(c) discharge such other functions as may be prescribed or as are supplemental, incidental or consequential to any of the functions conferred on it under this Act”

Reading of the aforesaid section do not show that any power to alienate or dispose of property of Corporation has been given to any of the officers as it distinctly finds place with power of State Food Corporation under section 17(2) of the Act, wherein the wording *dispose off the property* is used. For the sake of brevity Section 17(2) of the Act is reproduced.

17. Establishment of State Food Corporation,--

(1)

(2) A State Food Corporation established under sub-section (1) shall be a body corporate by the name notified under that sub-section, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may, by the said name, sue and be sued.

Therefore, the power having not been specifically delegated, the delegation for disposal of property cannot otherwise be presumed.

11. A perusal of sections 3 to 7 would show that the Corporation is a Body Corporate having juristic entity and the resolution and meeting of the Food Corporation and the State was held by Annexure P-2 which would show that on behalf of Corporation one D.K. Goutam, the Regional Manager and B.B. Datta Deputy Manager (Engineering) had attended. Besides, the Collector of District Raipur, Commissioner of Chhattisgarh Housing Board, Najul Officer who were total 5 persons were present in the said meeting wherein it was resolved to give 100 acres of land from 111.61 acres situated at village Kapa by the Food Corporation to the Housing Board. The question arises in this case as to whether the Regional Manager and the Deputy Manager of the petitioner's Corporation were authorised to deal with the matters of alienating and exchange of land of Housing Board ?

12. Though the reference was made to section 37 of the Act about the delegation of power which speaks that the Food Corporation may, by general or special order in writing delegate to the Chairman or any other member of the Board of Directors of the Secretary or other Officer of the Corporation, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary. For the sake of brevity, section 37 which deals with delegation is reproduced herein-below :

“**37. Delegation.--** A food Corporation may, by general or special order in writing delegate to the Chairman or any other member of the board of directors or the Secretary or other officer of the Corporation, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary”.

13. The document Annexure P-1 has been filed about the delegation of the power, which is made u/s 37 of the Act and Serial No.3 is about the purchase/acquisition of the land and at Sl.No.3, there are three separate heads which reads as under:

DELEGATION OF POWER UNDER SECTION 37 OF THE ACT, 1964

S. No	Nature of powers delegated	Distt. Authority	Level Powers	Regional Authority	Level Power	Zonal Authority	Level Power	H.Q. Authority	Level Power	Remarks
3	Purchase/ acquisition of land									
(a)	By statutory acquisition or transfer of Govt. Lands/ lands belonging to public authorities	--	--	R.M.	Full powers	—	—	—	—	This includes all misc. Expd., relating to site selection fees and advances to the Govt., Rly. Authorities Concerns etc., incidental to each case
(b)	Otherwise than in (a) above	—	—	—	—	—	—	M.D.	Full powers	—

(c)	Execution of deeds & documents (in all cases)	—	—	R.M.	Full Powers	--	--	—	—	Subject to general or special instructions by the Head Quarters
-----	---	---	---	------	-------------	----	----	---	---	---

14. Reading of the aforesaid delegation would show that all the powers were not delegated to alienate the land. The delegation was only to purchase and acquire the land. Obviously, such delegation appears to be for practical purpose that in case of purchase, the signing authority is being given to certain officers. Apart from such power of delegation, the document filed by the petitioner vide Annexure P-6 would also show that no finality to such commitment was arrived at by the Food Corporation. If two of the officers of the Corporation participated in certain meeting and signed the resolution/agreement wherein they decided to give away 100 acres of the land of Food Corporation of India to the Housing Board and in lieu thereof, accepted to take the Government land of 70 acres situated at village Sejbahar at the expense of Housing Board, the same cannot be made binding to the Corporation which is a body Corporate.
15. The Food Corporation of India is constituted under the FCI Act, 1964. As per section 3, it is a body corporate having perpetual succession and seal with power. Therefore, the ratio as laid down in ***Vice Chancellor v. S.K. Ghosh AIR 1954 S.C. 217*** is applicable wherein it was held that though a body corporate is a legal entity it has neither a living mind nor voice. It can only express its will in a formal way by a formal resolution and so can only act in its corporate capacity by resolutions properly considered, carried and duly recorded in the manner laid down by its constitution and when the rule requires resolution to be moved and passed in a meeting called for that purpose, every member of the body entitled to take part in the meeting must be given notice so that he can attend and express his views. Individual assents given separately cannot be regarded as equivalent to the assent of a meeting because the

incorporate body is different from the persons of which it is composed. Likewise in this case, other than the Board of Directors, two of the officers who are not empowered have attended the meeting to give away the land of F.C.I. In absence of any resolution by the Board of Directors, the two officers cannot act on behalf of the Corporation to alienate the part of the land. Therefore the alleged resolution cannot be acted upon. Had there been any meeting by the FCI authority by the resolution of the Board of Directors, the things would have been otherwise. If the resolution of meeting dated 11.10.2004 is perused, it shows that two officers agreed to give 100 acres of land to the Housing Board. If such action is upheld and is allowed to be acted upon, then in such a case, the officers of the Corporation shall have the unfettered right to alienate the property of FCI, not otherwise permissible in the Act. Therefore, the resolution of meeting to give away 100 acres of land by FCI would be a scrap of paper and cannot be acted upon. Consequently, the principle of promissory estoppel cannot be set into motion as there cannot be any estoppel against the law. The State is also unable to place on record under what authority Annexure P-7 i.e., the notice to hand over the possession of the land was issued to the petitioner when the ownership of the land never vested with the State. Consequently the letter Annexure P-7 is without authority and cannot be acted upon on the basis of resolution of a meeting.

16. In view of the above discussion, the petition is allowed. The order issued by the State dated 12.04.2005 (Annexure P-7) is quashed. The respondents shall be free to resort to acquisition proceedings as available to them under law, if they so need.

Sd/-
GOUTAM BHADURI
JUDGE