ORISSA HIGH COURT: CUTTACK

AFR

W.P(C) NO. 22402 OF 2017

In the matter of an application under Articles 226 and 227 of the Constitution of India.

Shree Shree Jagannath
Mahaprabhu Bije Srikhetra
Marfat Uttarparswa Math
Endowment Trustee Board ..... Petitioner

-Versus-

State of Odisha and others ..... Opp. Parties

For petitioner : M/s. U.C. Mohanty, T. Sahoo and B.K. Swain, Advocates.

For opp. parties : Mr. S.N. Nayak, Additional Standing Counsel

P R E S E N T:

THE HONOURABLE DR. JUSTICE B.R.SARANGI
AND
THE HONOURABLE MR JUSTICE B.P. SATAPATHY

DECIDED ON : 08.12.2022

DR. B.R. SARANGI, J. The petitioner, by means of this writ petition, seeks to quash the decision of the Government communicated vide letter dated 28.04.2017 under Annexure-7 in disallowing the award of solatium, and the consequential notice dated 10.05.2017 in Annexure-8 issued by opposite party no.3, by order of opposite party no.2, for refund of an amount of Rs.51,40, 838/-, as well as the letter no.123/LA dated 02.03.2016 under Annexure-5 of opposite party no.2 issued to the opposite party no.4 and the consequential order dated 02.03.2016 under Annexure-4, and further seeks to issue direction to opposite party no.4 for operation of its Axis Bank Account No. 915010019215714 through its authorized representative.

2. Briefly stated the facts of the case are that the Govt. of Odisha in Revenue and Disaster Management Department, vide its letter dated 06.07.2013, issued instructions to all the District Collectors regarding direct purchase of private lands for social development projects through bilateral negotiation and subsequent thereto further instructions were also issued vide letter dated 31.3.2014. As a consequence thereof, the competent revenue authorities were authorized to file requisition under the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013 (for short the "Act, 2013") to purchase the lands under the guidelines and also

while doing so to give compensation, as admissible in accordance with the provisions of the Act 2013, including the assessment of the market value of the land as admissible in respect of building and structure etc. Accordingly, the officers were also instructed to obtain non-encumbrance certificate from the concerned revenue authorities and establishment of the pure title of the seller over the land should be arrived before purchase of the land.

2.1 The Government of Odisha in Revenue & Disaster Management Department issued preliminary notification in prescribed Form-H under Section 11(1) of the Act, 2013, vide notification dated 08.01.2015. As per the said notification, plot nos.276 and 283 under Khata No.303 measuring area Ac. 0.127 dec. Kissam- Gharabari-1, Mouza- Chudanga Sahi had been notified. The same had also been published in two Odia newspapers "Dharitri" and "Tirthakhetra" dated 13.01.2015. Thereby, there was compliance of Section 11(1)(c) of the Act 2013. In addition to the same, the notification was duly published in the notice boards of the offices of the Sub-Collector and the Tahasildar. A copy of the same was also sent to the Executive Officer, Puri Municipality for discussion and for publishing the same in the notice board. Relating to the aforesaid suit plots for the purpose of acquisition of land, L.A. Case No.5/2015 was registered by opposite party no 3.

2.2 On the basis of aforesaid L.A. Case No.05 /2015 the follow up actions were taken by issuing notices to the RTs (petitioners) regarding the nature of claim and persons interested on subsequent date, i.e. on 10.03.2015 and also published declaration vide no.13743/R&DM dated 07.05.2015 under Section 19 of the Act, 2013. Notices were also issued under Sections 20 and 21 fixing to 11.06.2015 for hearing. Pursuant to such notice, the petitioner appeared on 11.06.2015 and filed its objection. The District Collector, Puri, being the Land Acquisition Collector in the proceeding held on 11.06.2015, considered the measurement made under Section 20 of the Act, 2013 and the field report conducted thereon and clarified regarding acquisition of Ac.0.127 in respect of plot nos.276 and 283 along with structure standing thereon and also accepted the proposal for revaluation of the structure since it is a new building. The petitioner, being the owner in possession in respect of the abovementioned suit plots of the Kisam of Gharabari, the award was passed by the Collector, while the same was acquired, and the awarded amount was transferred to the bank account of the petitioner maintained with opposite party no. 4, i.e., Bank Manager, Axis Bank, Puri, vide Account No. 915010019215714.

2.3 In adherence to the guidelines issued on 06.07.2013 and in terms of the Act 2013, the District Collector, Puri, in consideration of the above mentioned notification dated 08.01.2015, took steps for acquisition of land for widening of road keeping in view the Nabakalebar of Lord Shree Shree Jagannath Mahaprabhu in the Puri Town. Even though the petitioner, pursuant to such notice, raised objection, the same was not considered, but its lands were acquired as per Act, 2013 which came into force with effect from 01.01.2014. The widening of the road around the Shree Shree Jagannath Temple was also given post facto approval by the Govt. of Odisha, vide notification dated 04.02.2016, with reference to letter dated 09.01.2016 of the District Magistrate & Collector, Puri, as due to shortage of time and in view of first approaching of Nabakalebar, it was decided in principle to go for direct purchase of land on negotiation basis wherein the land owners were not inclined to execute the agreement with the Executive Engineer (R&B) Department rather preferred to enter the agreement with the Collector, Puri for sale of land to have better surety.

2.4 When the land acquisition process reached its finality with the passing of the award by the District Collector/ Land Acquisition Collector, Puri, vide award dated 26.05.2015, the District Collector, Puri issued instructions to the Branch Manager, Axis Bank, opposite party no.4, vide letter no.123 LA dated 02.03.2016 directing him for stoppage/withholding of the money mentioned against each beneficiary kept either in the account mentioned or in any other account or kept in the form of fixed deposit or any other instrument, till further instructions issued from him and the confirmation of withholding of money submitted to him accordingly. But the same was done without providing any kind of information or opportunity to the petitioner. The Branch Manager, Axis bank, Grand Road, Puri issued letter dated 02.03.2016 to the petitioner from which the petitioner came to know that as per instructions of the District Collector, Puri the amount lying in the account of the petitioner in the bank has been withheld.

2.5 The petitioner came to learn from reliable sources that the Revenue and Disaster Management Department raised a plea of irregular payment as per the audit objection and for compliance of the audit objection issued instructions to the District Collector/Land Acquisition Collector, Puri, who in its turn also gave reply to the same vide letters dated 09.01.2016, 21.03.2016 and 02.04.2016. The reasons for withholding amount having not been communicated, the petitioner to find out the reasons applied for information under the Right to Information Act, 2005 from the District Collector/Land Acquisition Collector, Puri, from which it was revealed that clarifications in compliance to the audit objection were given by providing letters dated 09.01.2016, 21.03.2016, 02.04.2016 along with the expert opinion dated

27.2.2016 given by the Executive Engineer (R&B) Division, Puri.

2.6 The Government in the Revenue and Disaster Management Department vide its letter dated 28.04.2017 took a view that the solatium is only to be added to the compensation payable to any person whose land has been acquired, i.e., payment of solatium would arise only if the land of such affected person has been taken over for the purpose of the project and solatium can be given only to the land losers and not to otherwise affected persons. Basing upon such report of the Government, the District Collector/ Land Acquisition Collector, Puri vide notice dated 10.05.2017 directed that the amount of Rs.51,40,838/- paid towards solatium on the collateral damages of the property of the petitioner is not payable, as the audit has raised to that effect objection and, accordingly, the petitioner has to refund the aforesaid amount. Hence, this writ petition.

3. Mr. U.C. Mohanty, learned counsel appearing for the petitioner vehemently contended that without adhering to the provisions contained under Sections 26 to 37 of the Act,

2013, instructions issued by the Government in Revenue and Disaster Management Department, vide letter dated 28.04.2017, cannot be sustained in the eye of law. More so, the direction for recovery of solatium, having been given without affording an opportunity of hearing to the petitioner, also cannot be sustained in the eye of law. Thereby, the Certificate Officer, without following the provisions of law as provided under the Odisha Public Demands Recovery Act, 1961 (for short "OPDR Act, 1961") and even without providing any opportunity of hearing to the petitioner, has passed an order in issuing the certificate directing the petitioner for deposit of the amount indicating therein that for non-payment of the same the property shall be attached and he will be arrested.

3.1 It is further contended that the Collector, while passing the award including determination of amount of compensation, has resorted to the provisions contained under Sections 26 and 27 of the Act, 2013, and parameters for the same clearly establish that the damage if any sustained by the person at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings etc. and the Collector shall determine the value of the things attached to the land or building by taking the services of the competent engineer or any other specialist in the relevant field, as may be considered necessary by him. Section-30 provides that the Collector, having determined the total compensation to be paid, shall to arrive at the final award impose a solatium amount equivalent to one hundred percent of the compensation amount, which itself establishes that whatever the compensation amount finally awarded shall be included equivalent amount to one hundred percent of the compensation amount.

3.2 It is further contended that by misinterpreting the explanation to Section-30, the letter dated 28.04.2017 followed by the notice dated 10.5.2017 were issued, which cannot be sustained in the eye of law. It is also contended that the direction of this Court contained in order dated 05.05.2016 passed in W.P.(C) No. 7690 of 2016 has not been complied with. Thereby, direction given for refund/recovery of Rs.51,40,838/- being arbitrary, illegal and contrary to the provisions of law, cannot sustain in the eye of law.

3.3 To substantiate his contention, learned counsel for the petitioner has placed reliance on the judgment of the apex Court in the case of ***RB Dealers Private Limited v. Metro Railway, Koltaka***, AIR 2019 SC 3447.

4. Mr. S.N. Nayak, learned Additional Standing Counsel appearing for the State-opposite parties vehemently contended that decision of the Government dated 28.04.2017 disallowing the award of solatium and consequential notice dated 10.05.2017 calling upon the petitioner to refund Rs.51,40,838/- are well justified. It is further contended that the schedule land had been acquired through bilateral negotiation and direct purchase process following the instructions communicated by the Govt. in Revenue and Disaster Management Department, vide letters dated 06.07.2013, 31.03.2014 and 07.02.2014, for the project "Widening of road around Shree Jagannath Temple, Puri", in view of Nabakalebar-2015. As per the provisions

contained in the Act, 2013, the preliminary notification was issued under Section-11(1) and public objections under Section-15(1) were heard and thereafter final declaration under Section-19 of the Act, 2013 was made by the Government. Then, notices were issued to the petitioner and similarly placed land losers to ascertain the nature of their claim. Accordingly, hearing under Section-21 was conducted on 11.6.2015, on which date the petitioner along with other persons also submitted the required information/ documents relating to the nature of their claim, which were duly considered and disposed of. Then, compensation was determined following the provisions of Sections-26, 27, 28 & 29 of Act, 2013. While determining total compensation amount, to arrive at final award, solatium was assessed at Rs.93,54,959/- which was equivalent to 100% of the compensation amount. The consideration amount, as determined by the Collector and communicated to the petitioner, was released to the account of the petitioner, which was opened in opposite party no.4's bank. But A.G. Audit, on verification of the payment position, raised objection to the payment of compensation in respect of the structures situated beyond acquired area with equivalent solatium amount. Taking into consideration the said objection, it was held that excess expenditure of Rs.2.26 crore has been made by way payment of compensation towards cost of buildings situated beyond the area of land acquired. It was also observed by checking 28 L.A. Case Records (19 direct purchase, and 9 through L.A. process), out of 53 case records, that transparency has not been maintained. Land had been acquired for public necessity due to Nabakalebar Festival, 2015. The process of land acquisition was completed just before the Nabakalebar, 2015 amidst non-cooperation, resistance and hefty demands for compensation by persons interested. As regards the discrepancy in the area of the structure, for which compensation has been paid, it was further explained to audit that the valuation of the structure can never be limited to the plinth area of the building, as the building standing on the area acquired had extended structures which were actually assets attached to the building and were injuriously affected by way of taking possession. It was further explained that once the building is dismantled, particularly in case of archaic buildings involved in the land acquisition process, it has to affect the very basic structure of the building where collateral damage was inevitable necessitating payment of compensation for such damaged area, consisting assets attached to the building. In support of such explanation, documentary evidence, such as, photographs, C.Ds. were also submitted to audit. But such explanation was not accepted by the audit and steps were taken for refund of the solatium amount. Consequentially, no illegality or irregularity has been committed. Thereby, the writ petition has to be dismissed.

5. This Court heard Mr. U.C. Mohanty, learned counsel appearing for the petitioner and Mr. S.N. Nayak, learned Additional Standing Counsel appearing for the State-opposite parties in hybrid mode and perused the records. Pleadings have been exchanged between the parties, with the consent of learned Counsel for the parties the writ petition is being disposed of finally at the stage of admission.

6. The sole question that arises for consideration before this Court, on the basis of the pleadings available on

record, is that whether determination for payment of compensation including the solatium can be made in terms of the provisions contained in the Act, 2013 or not, and if so, whether the instructions issued by the Revenue and Disaster Management Department dated 28.04.2017 for refund of the amount of solatium already paid is well justified or not.

7. It is the admitted fact that the land and the building standing thereon were acquired under the Act, 2013 in the greater public interest of widening the road around Shree Jagannath Temple, Puri in view of Nabakalebar-2015. Thus, acquisition having been made by following the due procedure prescribed under the Act, 2013, the amount of compensation was paid to the petitioner by depositing the same with the opposite party no.4-bank, which maintains the account of the petitioner. But due to audit objection, now direction has been given for refund of such amount which had been deposited towards solatium. Several clarifications have been made, as mentioned above, that the petitioner is not entitled to get solatium and, therefore, liable to refund the amount paid to him, in view of the audit report. It is not in

dispute that without giving any opportunity to the petitioner and without complying with the principles of natural justice, all of a sudden the District Magistrate-cum-Collector, Puri issued direction on 10.05.2017 to opposite party no.4, i.e., the Axis Bank not to disburse the amount to the petitioner. Consequentially, the account of the petitioner has been ceased/freezed and not made operational depriving the petitioner to avail the benefit granted to him. If the audit has made some objection for payment of solatium, there is no valid and justifiable reason not to give opportunity of hearing to the petitioner before issuance of any instruction to opposite party no.4 to cease/freeze the account. Furthermore, if it is the admitted fact that the land and building standing thereon had been acquired and due compensation was paid to the petitioner including solatium, in that case, merely because an objection was raised by the audit, instructions cannot be issued by the Government for refund of the solatium already paid to the petitioner, contrary to the provisions of law as envisaged under the Act, 2013.

8. Before delving into the question posed, it is necessary to examine the meaning of 'solatium' as defined in various English dictionaries.

In **Chambers Dictionary**, the word 'solatium' has been defined to mean compensation for disappointment, inconvenience wounded feelings.

According to **Cambridge Dictionary**, 'solatium' means something, for example money, that is given to someone to make them feel better when they have suffered in some way.

In **Collins English Dictionary**, the word 'solatium' means compensation awarded to a party for injury to the feelings as distinct from physical suffering and pecuniary loss.

8.1 In ***March v. City of Frankston***, (1969) VR 350, while considering Section 26 of Valuation of Land Act, 1960, as amended by the Valuation of Land (Appeals) Act, 1965, it was held as follows:-

> *"'Solatium' is an expression apt to describe an award of some amount to cover inconvenience and, in a proper case, distress caused by compulsory taking. It is quite inapt to describe an amount awarded for provable loss to which the claimant is entitled."*

8.2 In ***Narain Das Jain v. Agra Nagar Mahapalika***, (1991) 4 SCC 212, the apex Court held has follows:-

> *"Solatium' is a 'money comfort' qualified by the statute and given as a conciliatory measure for the compulsory acquisition of land of the citizen, by a welfare state such as India."*

It was further clarified as follows:-

> *"Solatium' is a 'money comfort' qualified by the statute and given as a conciliatory measure for the compulsory acquisition of land of the citizen, by a welfare state such as ours."*

The above view has also been taken by the apex Court in ***Panna Lal Ghosh v. Land Acquisition Collector***, (2004) 1 SCC 467.

9. Taking into account the above meaning attached to the word 'solatium', the inevitable conclusion is that it is in the nature of compensation especially damages for sorrow mental agony or wounded feeling. In other words, it is consolation, compensation and sentimental damages paid to

a party whose land has been acquired. It can also be explained that sum paid to an injured party over and above actual damages by way of solace to his wounded feeling.

10. Therefore, there is no iota of doubt that the petitioner's land and the building standing thereon, which was situated adjacent to Shree Shree Jagannath Temple, having been acquired, there must be injuries to the feelings and sentiments of the petitioner. As a consequence thereof, solatium was paid, along with the compensation amount, by depositing the same in the account of the petitioner with opposite party no.4. After having deposited the amount, the opposite parties no. 2 and 3 should not have issued instructions to opposite party no.4-bank with regard to cessation of the bank account causing undue hardship to the petitioner.

11. It is of relevance to note that the authorities have determined the compensation as per the provisions contained under Sections-26, 27, 28 and 29 of the Act 2013 and solatium at the rate of 100% over the total compensation amount determined and payable under Section-30(3) of the

Act, 2013. The determination of the final award shall be different than that of the determination of amount of compensation. The amount of compensation is one part of the final award. But there are three components, namely, the compensation amount plus additional amount calculated @ 12% per annum as per Section-30(3) of the Act, 2013 and solatium as per Section-30(3) of the Act, 2013. Therefore, if the amount has been determined and solatium has been paid, as contemplated under Sub-section (1) of Section-30 of the Act, 2013 and the same has been calculated only on the market value of the land, i.e., total compensation amount as determined under Sections-26, 27 and 28 of the Act, 2013. Therefore, the question of refund of such amount by issuing administrative instructions by the Department of Revenue and Disaster Management cannot sustain in the eye of law.

12. In ***R.B. Dealers*** (supra), the apex Court, referring to the provisions of law as provided under Sections-26 to 30 and Section-69(3) of the Act, 2013, held that before the final award is passed by the Collector, the Collector has to determine the market value of the land as provided

under Section-26 of the Act and as per Section-27 read with the parameters of Section-28 and the determination of the value of the things attached to the land or building shall be as per Section-29 of the Act, 2013. The Collector, while passing the final award as per Sections-26, 27 and 28, has to award a solatium amount equivalent to 100% of the compensation amount as per Sections-29 and 30 of the Act, 2013. The land owners, whose lands have been acquired, are also entitled to, in addition to the market value of the land, an additional amount @ 12% as per Section-30(3) of the Act, 2013.

13. In view of the aforesaid law laid down by the apex Court, the determination of the amount of compensation made by the Collector and the Land Acquisition Officer towards acquisition of the land and building standing thereon and payment made to the petitioner, is well justified and, as such, the same has attained its finality as per Section-37 of the Act, 2013. Merely because an audit objection was raised, the authorities have directed not to operate the bank account and that itself cannot sustain in absence of compliance of

due procedure of law and principles of natural justice. It is well settled law, as laid down by the apex Court time and again, that mere objection raised by audit cannot form foundation for recovery or stoppage of money in absence of any proper inquiry as per law.

14 The basic principle behind the audit report cannot be used as a substantive evidence of the genuineness of the *bona fide* nature of the transaction referred to in the accounts. Audit is official examination of the accounts in order to make sure that the accounts have been properly maintained according to the prescribed mode. Audit report is a statement of facts pertaining to the maintenance of accounts coupled with the opening of the auditor in respect thereto based on those facts. Therefore, that cannot be a ground for issuance of instructions to the bank not to allow the petitioner to operate its account. If the petitioner is otherwise entitled to get the solatium as per the provisions contained under Section-30(3) of the Act, 2013 and the same has been paid in due adherence to the provisions of law, that cannot be recovered or refunded on the basis of the

instructions issued by the Revenue and Disaster Management Department, vide letter dated 28.04.2017, that too on the basis of the audit conducted by the authorities.

15. It is well settled principle of law laid down by the Privy Council and the apex Court that if the statute prescribes a thing to be done in a particular manner the same should be done in that manner or not at all.

In ***Taylor v. Taylor***, (1876) 1 Ch D 426, it was laid down that where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden. This doctrine has often been applied to Courts.

In ***Nazir Ahmed v. King Emperor***, AIR 1936 PC 253, law is well settled "where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden."

In ***Commissioner of Police, Bombay v. Gordhandas Bhanji***, AIR 1952 SC 16, the apex Court held as follows:-

> *"Public orders publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the acting and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.*

Similar view has also been taken by the apex Court in ***J&K Housing Board v. Kanwar Sanjay Krishan Kaul***, (2011) 10 SCC 714.

In ***State of Rajasthan v. Jagdish Narain Chaturvedi***, (2009) 12 SCC 49, the apex Court held that in case of conflict between the statutory rules and administrative instructions, the former shall prevail. No administrative instructions can override statutory rules.

In ***Joint Action Committee of Airlines Pilots Associations of India v. Director General of Civil Aviation***, (2011) 5 SCC 435, the apex Court held that the executive instructions are issued for guidance and to implement the scheme of the Act and do not have the force of law, can be issued by the competent authority and altered, replaced and substituted at any time.

In ***K.H. Siraj v. High Court of Keral***, (2006) 6 SCC 395, the apex Court held that executive instructions can always supplement the rules which may not deal every aspect of a matter.

In view of the above, the administrative instructions/executive instructions issued by the Revenue and Disaster Management Department dated 28.04.2017 are contrary to the statutory provisions contained uner Sections 26, 27, 28, 29 and 30 of the Act, 2013 and thus cannot sustain in the eye of law.

16. Considering from other angle, due to restrictions imposed for operation of the account of the petitioner, undue hardship has been caused. On the one hand, the land and building, where the petitioner was residing, was acquired and demolished which made him homeless, and on the other hand, instructions have been issued to the bank not to allow the petitioner to operate the bank account on flimsy ground,

which gravely affects the petitioner's right to live, as enshrined under Article 21 of the Constitution of India.

17. In ***Narendra Kumar v State of Haryana***, (1994) 4 SCC 460: AIR 1995 SC 519, the apex Court held that right to livelihood is an integral facet of the right to life.

18. In ***Francis Carlie Mullian v. Administrator, Union Territory of Delhi***, AIR 1981 SC 746 : (1981) 1 SCC 608, the apex Court held that every citizen has a right to live with human dignity.

19. In ***Menaka Gandhi v. Union of India***, (1978) 1 SCC 248 : AIR 1978 SC 597, the apex Court held that Article 21, if read literally, is a colourless article and would be satisfied, the moment it is established by the State that there is a law which provides a procedure which has been followed by the impugned action. But the expression 'procedure established by law' in Article 21 has been judicially construed as meaning a procedure which is reasonable, fair and just.

20. The term 'life' used in Article 21 of the Constitution of India has a wide and far reaching concept. In Board of

Trustees of the ***Port of Bombay v. Dilipkumar Raghavendranath Nadkarni***, (1983) 1 SCC 124: AIR 1983 SC 109, the apex Court held that life means something more than mere animal existence and the inhibition against the deprivation of life extends to all those limits and faculties by which life is enjoyed.

21. In ***Chameli Singh v. State of Uttar Pradesh***, (1996) 2 SCC 549 : AIR 1996 SC 1051, the apex Court held that right to life means to live like a human being and it is not ensured by meeting only the animal needs of man. It includes right to live in any civilized society implies the right to food, water, decent environment, education, medical care and shelter. It is further held that right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right. As it enjoined in the directive principles, the State should be deemed to be under an obligation to secure it for its citizens.

22. In ***P.G. Gupta v. State of Gujarat***, 1995 Supp (2) SCC 182, the right to shelter has also been defined by the apex Court.

23. Therefore, taking into consideration the very purpose behind Article 21 and applying the same to the present context, it is amply clear that once the compensation amount has been determined and awarded to the petitioner in accordance with the Act, 2013, subsequent thereto, on the basis of audit objection, so far as solatium part is concerned, the opposite parties cannot ask for refund of the same. That by itself forms part of the award amount as per provisions contained in Section-30(3) of Act, 2013. More so, the meaning attached to the word 'solatium', as discussed above, is crystal clear. For generation to generation the petitioner had been residing adjacent to Shree Shree Jagannath Temple. The land and building standing thereon was acquired for the greater public interest. Thereby, while parting with the land as well as the building, the emotion, the sensitiveness, the thoughts of the petitioner attached to that place has been injured. The same was assessed in terms of money and paid to the petitioner towards solatium. Therefore, under no circumstance, the State has got any right to recover such solatium awarded in favour of the petitioner and, as such, the consequential direction so given not to operate the bank

account cannot also sustain. Thereby, the impugned decision dated 28.04.2017 taken by the Government under Anenxure-7 disallowing the award of solatium, being violative of Section- 30(3) of the Act, 2013, and the consequential notice issued on 10.05.2017 vide Anenxure-8 by opposite party no.3, by order of opposite party no.2, to refund the solatium amount, cannot sustain, as the same are contrary to the provisions contained under Sections-26 to 30 of the Act, 2013. As a consequence thereof, the said orders are hereby quashed and the opposite parties are hereby directed to allow the petitioner forthwith to operate its Axis Bank Account No. 915010019215714 through its authorized representative.

24. In the result, the writ petition is allowed. However, there shall be no order as to costs.

(DR. B.R. SARANGI)
JUDGE

B.P. SATAPATHY. I agree.

(B.P. SATAPATHY)
JUDGE

Orissa High Court, Cuttack
The 8th December, 2022, Arun/GDS