

(1970) 02 PAT CK 0017

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No's. 604 and 1174 of 1969

Bokaro and Ramgur

APPELLANT

Vs

Additional Collector and Another

RESPONDENT

Date of Decision : 16-02-1970

Acts Referred:

Constitution of India, 1950 — Article 14, 19
Land Acquisition (Bihar Amendment) Act, 1960 — Section 5A, 6
Land Acquisition Act, 1894 — Section 4, 6

Citation : AIR 1971 Patna 167

Hon'ble Judges : N.L. Untwalia, J;G.N. Prasad, J

Bench : Division Bench

Advocate : Sudhir Chandra Ghose and Madan Mohan Prasad, for the Appellant;
Lal Narayan Sinha and R.K. Katriar, for the Respondent

Judgement

Untwalia, J.—Both these petitions have been filed by Messrs. Bokaro and Ramgur Limited, objecting to the proceeding for acquisition of land measuring 3.70 acres situated in village Sarle within the town of Hazaribagh. The proceeding has been started under the Land Acquisition Act, 1894 (Central Act 1 of 1894), hereinafter called "the Act". A notification u/s 4 of the Act, as it stands amended by the Land Acquisition (Bihar Amendment) Act. 1960 (Bihar Act 11 of 1961), was issued by the Addl. Collector of Hazaribagh sometime in early 1967. The petitioner-company filed an objection before the Addl. Collector, a copy of which is annexure 1 to the writ application in C. W. J. C. No. 604 of 1969 objecting to the acquisition of the land on certain grounds. The objection filed by the petitioner-company was dismissed for default on the 14th of October, 1968. It was subsequently restored at the instance of the petitioner-company but was finally dismissed on the 1st of May, 1969. A declaration u/s 6 of the Act as it stands under the Bihar Amendment, however, had been issued by the Addl. Collector on the 19th October, 1968 after dismissing the objection of the petitioner-company on the 14th October, 1968. The petitioner-company has challenged the validity of this notification in C.W.J.C. No. 604 of 1969 chiefly on the ground that it was

issued prior to the final rejection of the petitioner's objection on 1st May, 1969. At the time of the admission of this application on 14th July, 1969 it was stated that the application will be heard on the constitutionality of the sixth section of the Act as it stands amended by Section 5 of the Land Acquisition (Bihar Second Amendment) Act, 1956. It was also observed in the order admitting the application that if the State Government was so advised, they may issue a fresh declaration u/s 6 in view of the order rejecting the petitioner's objection u/s 5A on the 1st May, 1969. A fresh declaration u/s 6 was issued on the 22nd July, 1969. C.W.J.C. No. 1174 of 1969 has been filed by the petitioner-company to challenge the fresh declaration a copy of which is annexure 4 to that writ application.

2. C.W.J.C. No. 1174 of 1969 was admitted on the 29th September, 1969. The previous writ application has become infructuous because the only point of substance which was available to the petitioner-company in that case, In view of the fresh declaration issued on the 22nd July, 1969. is not available to it. There is no question of considering the constitutionality of the sixth Section of the Act as it stands amended by the Land Acquisition (Bihar Second Amendment) Act, 1956, as the said Amending Act stands repealed by Section 2 of Bihar Act 11 of 1961. Mr. S.C. Ghose, learned counsel for the petitioner, however, has challenged the constitutional validity of the said section even as it stands after the Land Acquisition (Bihar Amendment) Act, 1960. Learned counsel has further submitted that the declaration, annexure 4. is invalid because it is not in conformity with the law and even on its face, the acquisition is not for a public purpose.

3. The facts are not In dispute. Since accepting a part of the contention in regard to the validity of the declaration u/s 6 made on July 22, 1969, I am going to set aside that notification which will necessitate making of a fresh declaration u/s 6 of the Act by the Addl. Collector, I think it advisable and necessary to decide the constitutional validity of the said section in C.W.J.C. No. 1174 of 1969 so that after the issuance of a fresh declaration u/s 6 of the Act, the point may not be open to be reagitated.

4. u/s 4 of Central Act 1 of 1894, whenever it appears to the appropriate Government, which for the purposes of discussing the law hereinafter in my judgment, I shall generally confine to refer to the State Government that land in any locality is needed or is likely to be needed for any public purpose, a notification to that effect has to be published in the official gazette and in some other manner as provided in that section. u/s 5A. any person interested in the land which has been notified u/s 4(1) may, within thirty days after the issue of the notification, object to the acquisition of the land. Every objection under Sub-section (1) of Section 5A has to be made to the Collector in accordance with Sub-section (2) and the Collector, after giving objector an opportunity of being heard, has to make a report to the State Government containing his recommendations on the objections together with the record of the proceedings held by him for the decision of the State Government whose decision is final. Section 6 of the Central

Act thereafter reads as follows:---

"6 (1). Subject to the provisions of Part VII of this Act, when the appropriate Government is satisfied, after considering the report, if any, made u/s 5A, Sub-section (2). that any particular land is needed for a public purpose, or for a company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorised to certify its orders and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification u/s 4, Subsection (1), irrespective of whether one report or different reports has or have been made wherever required u/s 5A, Sub-section (2):

Provided that no declaration in respect of any particular land covered by a notification u/s 4, Sub-section (1), published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance. 1967, shall be made after the expiry of three years from the date of such publication:

Provided further that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a company or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

(2) Every declaration shall be published in the official gazette, and shall state the District or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) the said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be; and after making such declaration, the appropriate Government may acquire the land in manner hereinafter appearing."

5. The scheme under the Central Act, therefore, is that a declaration u/s 6 of the Act can be made by the State Government to the effect that a particular land is needed for a public purpose under the signature of a Secretary to the State Government or of some officer duly authorised to certify the orders, if no objection has been filed u/s 5A or if any objection has been filed, thereon considering the report of the Collector in that regard. The objection u/s 5A has to be heard by the Collector which expression, u/s 3(c) of the Act, means the Collector of a District and includes a Dy. Commissioner and any officer specially appointed by the appropriate Government to perform the functions of a Collector under this Act. But the Collector cannot decide himself the objection filed by the objector. He has to make his recommendations on the objections in his report to the State Government. The State Government has to decide the objection and then issue a declaration u/s 6 of the Act.

6. The Land Acquisition (Bihar Amendment) Act, 1960, has amended Clause (c) of Section 3 of the Act to say-

"the expression "collector" means the Collector of a district and includes a

Deputy Commissioner, Additional Collector. Addl. Deputy Commissioner and any officer specially appointed by the appropriate Government to perform the functions of a Collector under this Act except the functions under Sections 4, 5A, 6, 35 and 38."

Under the amended Section 4, the Collector which means the Additional Collector also has been authorised to issue a notification under that section if it appears to him that land is needed or is likely to be needed for any public purpose. This is apart from the power of the State Government under that provision of law. Section 5A has also been amended by Bihar Act 11 of 1961. Under Sub-section (2) of the Bihar Amendment, every objection under Sub-section (1) of Section 5A has to be made in writing to the Collector who has to give the objector an opportunity of being heard and has been given the power to decide the objection irrespective of the question whether the notification u/s 4 has been issued by the State Government or by him. A proviso has been appended to Sub-section (1) of Section 5A which reads thus;

"Provided that the appropriate Government may, either of its own motion or on the application of any person interested in the land, call for the record of the proceedings held by the Collector and pass such order as it may think fit."

Sub-section (2) (ii) says:--

"The order of the appropriate Government and subject to such order, the decision of the Collector under Clause (i) shall be final."

Section 6 of the Act as it stands after the Bihar Amendment made by Bihar Act 11 of 1961 reads as follows:--

"6. (1) Subject to the provisions of Part VII of this Act. where the appropriate Government is satisfied after considering the Collector's report, if any, under the proviso to Sub-section (2) of Section 5A, or the Collector is satisfied after hearing the objections, if any, u/s 5A, that any particular land is needed for a public purpose, or for a Company, a declaration shall be made by the appropriate Government or the Collector as the case may be, to that effect in writing;

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of the Consolidated Fund of the State or some fund controlled or managed by a local authority.

(2) Every declaration shall be published in the official gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be; and. after making such declaration, the appropriate Government or the Collector, as the case may be,

may acquire the land in manner hereinafter appearing."

7. The intention of the Bihar Amendment seems to be that if a notification u/s 4 is issued by the Collector or the Additional Collector, the objection can be finally decided by him subject to the power of revision of the State Government to revise either suo motu or on application of any person interested in the land, the decision of the Collector and then, after rejection of the objection, he can proceed to issue a declaration u/s 6(1) of the Act. What is, however, not clear to me is what is to happen when a notification u/s 4 is issued by the State Government. Still, as it appears from the language of Section 5A(2) of the Act, as it stands under the Bihar Amendment, the Collector can finally decide the objection subject to the Revisional power of the State Government. But if there is no interference by the State Government in exercise of their power of revision on what basis the declaration by the State Government u/s 6(1) is to follow is not clear to me. Some anomalous and incongruous phrases have been used in Sections 5-A and 6 of Bihar Amendment. The expression "where the appropriate Government is satisfied after considering the Collector's report, if any" has been retained, and in place of the expression "made u/s 5-A, Sub-section (2)" the expression used is "under the proviso to Sub-section (2) of Section 5-A". The proviso to Sub-section (2) of Section 5-A does not require any report from the Collector. When the State Government proposes of its own motion or on the application of any person to call for the proceedings held by the Collector in exercise of their power under the proviso, they may call for a report from the Collector, but in terms, the proviso does not envisage the submission of such a report. What I am inclined to think is that perhaps the intention of the Legislature was to leave the provision of Section 5-A (2) of the Central Act intact in case the notification u/s 4 had been issued by the State Government, but to authorise the Collector or the Additional Collector to decide the objection finally, subject to the power of revision of the State Government, in case the notification u/s 4 had been issued by him. Had the intention been so clearly expressed, the language of Section 6(1) would have been slightly different and would have brought about the required result of authorising the State Government to issue a declaration after considering the Collector's report, if any. The expression "if any" is necessary because there may not be any objection u/s 5-A and consequently, no report under that section. It is also not clear to me as to how the State Government would be able to issue the declaration u/s 6(1) of the Act if the State Government did not propose to exercise its revisional power under the proviso to Sub-section (1) of Section 5-A on its own motion or is not moved to exercise that power. In that case, there will be no report by the Collector. His decision will be final under Clause (ii) of Sub-section (2) of Section 5-A. In that event, who would issue the declaration u/s 6(1) is not clear--whether it would be the State Government; if so, on what basis, or--whether the Collector is validly authorised in that event to issue a declaration u/s 6(1). Be that as it may, testing the matter of Section 6 of the Act with reference to the facts of this case, it is clear that a declaration u/s 6 could be made by the Additional Collector after

rejecting the objection of the petitioner-company u/s 5A of the Act.

8. Mr. S.C. Ghose attacked the constitutionality not only of Section 6 of the Act but also of Section 4 as it stands by the Bihar Amendment on the following grounds:--

"(i) That it violates the fundamental right of the petitioner company under Article 19(1)(f) of the Constitution as unreasonable restriction has been put upon its right by empowering the Collector or the Additional Collector to initiate and take all proceedings under the Act whereas under the Central Act, such power has been given to the appropriate Government only; and,

(ii) that the Bihar Amendment violates the protection given to persons under Article 14 of the Constitution."

9. In several decisions of the Supreme Court, it has been pointed out that once the law of acquisition stands the test of constitutional validity with reference to Article 31, the question of violation of fundamental right guaranteed to the citizens under Article 19(1) does not arise--vide *The State of Bombay Vs. Bhanji Munji and Another*, ; *Lilavati Bai Vs. The State of Bombay*, , *Babu Barkya Thakur Vs. The State of Bombay and Others*, and *Smt. Somavanti and Others Vs. The State of Punjab and Others*, . In *Ambalal Purshottam etc. Vs. Ahmedabad Municipal Corporation and Others*, it was observed at p. 1225 that by the compulsory acquisition of a land for public purpose subject to payment of compensation, no fundamental rights guaranteed under Articles 19 and 31(2) of the Constitution were infringed.

10. Under Article 31 the constitutional validity of the Land Acquisition Act was upheld even though in some cases it did not fulfil the condition engrafted under Article 31(2) on the ground of its being a pre-constitution law and. therefore, saved under Article 31(5)(a). The amendment introduced by Bihar Act 11 of 1961 is not a pre-constitution law. It is a post-Constitution law but it had been reserved for the consideration of the President and the Act has received his assent in accordance with Article 31(3). The compulsory acquisition is provided in the Act even under the Bihar Amendment for a public purpose and by authority of law which provides for compensation for the property so acquired. There is, therefore, no violation of the provision contained under Article 31(2) of the Constitution.

11. Learned counsel for the petitioner-company perhaps felt emboldened to refer to violation of the fundamental right guaranteed to citizens under Article 19(1)(f) of the Constitution because of the recent judgment of the Supreme Court in the *Rustom Cavasjee Cooper Vs. Union of India (UOI)*, where, as it appears from the press report, some departure seems to have been made in respect of the law laid down by the Supreme Court in the earlier decisions, referred to above, given on the basis of the *A.K. Gopalan Vs. The State of Madras*, that when the law of acquisition stands the test of Article 31, it need not be tested with reference to Article 19. Even assuming that it can still be tested with reference to Article 19,

as seems to have been decided in the *Rustom Cavasjee Cooper Vs. Union of India (UOI)*, there are two answers in this regard. Article 19 is not available, as is well established by several decisions of the Supreme Court, to a corporate body. It is available to citizens only. Moreover, I have no hesitation in repelling the argument by saying that providing in the law of acquisition power to the Collector or the Additional Collector to acquire land is not an unreasonable restriction on the right of the citizens to acquire, hold and dispose of property. The power is still there of the appropriate Government including the State Government but the law has also authorised the Collector or the Additional Collector to exercise the power of acquisition. If the Legislature in their wisdom decided to vest the Collector and the Additional Collector with this power, the court will be reluctant to say that the Collector or the Additional Collector is an officer of such an inferior grade compared to the Secretary, Deputy Secretary or Under Secretary of the State Government so as to enable it to say that the restriction put is an unreasonable one.

12. The main plank of argument, however, on behalf of the petitioner was on the basis of a decision of the Supreme Court in *Northern India Caterers Private Ltd. and Another Vs. State of Punjab and Another*, followed by a Bench decision of this court in *Ramzan Mian v. Executive Engineer* 1969 BLJR 1010 with reference to Article 14 of the Constitution. In the case before the Supreme Court, while considering certain provisions of a Punjab Statute, it was pointed out in the majority decision at page 1587 :

"Assuming that persons in occupation of Government properties and premises form a class by themselves as against tenants and occupiers of private owned properties and that such classification is justified on the ground that they require a differential treatment in public interest, those who fall under that classification are entitled to equal treatment among themselves. If the ordinary law of the land and the special law provide two different and alternative procedures, one more prejudicial than the other, discrimination must result if it is left to the will of the authority to exercise the more prejudicial against some and not against the rest".

The same principle was applied by a Bench of this Court while striking down Section 6 of the Bihar Public Land Encroachment Act. S.N.P. Singh, J. pointed out at page 1015 after quoting Section 19 of the said Act that it abundantly made clear that the provisions in that Act for the removal of an encroachment on a public land are not substitutive but supplemental. The Government can institute a suit as well for removal of an encroachment on a public land as defined in Section 2(3) of the Act. The drastic procedure u/s 6 also could, in certain cases without any guide line as to in what class of cases only, be adopted.

13. In my opinion, in regard to the law in question, by the Bihar Amendment, the power has been given to the Collector or the Additional Collector also of initiating proceedings for acquisition of land u/s 4 of the Act. In appropriate cases, the appropriate Government can do it. In other cases which must be confined to the district where the Collector or the Additional Collector is posted, he can take

steps for acquisition of a particular land. It does not provide any discrimination against the same person. If a person's land is to be acquired, the proceeding for its acquisition can be initiated either by the State Government or by the Collector. To give authority of initiating proceedings for acquisition of the land to two, namely, the appropriate Government and the Collector is not to bring about any discrimination against any person. It is not right to say that in some cases the State Government will initiate the proceeding and thereby will give better protection to the citizen and in others the proceedings can be initiated by the Collector only subjecting him to lesser protection of the law and not equal. When we carefully examine the provisions of Section 5-A of the Act as it stands under the Bihar Amendment, the matter would be clear that in substance there is no discrimination and denial of equal protection of law. If a notification is issued u/s 4 of the Act by the State Government, the objection can be filed before the Collector, and even assuming for the time being that it can be decided by him, the State Government have the power to revise the order. Undoubtedly, they have such power when the notification is issued u/s 4 by him and he decides the objection u/s 5-A (2). If a person interested in the land can approach the State Government to revise the order of the Collector dismissing his objection u/s 5-A (2) of the Act. I do not see how the person is affected by exercise of the power by the Collector of issuing a notification u/s 4 of the Act. The final word in both the cases is with the State Government. If the State Government would allow the objection, no declaration u/s 6 can be issued by the Collector. If the rejection of the objection remains as being final either on the decision of the Collector or on the order of the State Government in exercise of their revisional power, it follows a declaration u/s 6 by the Collector, will be reasonable and valid,

14. I may also refer to one matter in this connection to emphasise that Article 14 has not been violated by giving power to the Collector to initiate a proceeding for acquisition of land. Under the special powers in cases of urgency provided in Section 17 of the Act, the State Government may direct that the provisions of Section 5-A shall not apply, and if it does not direct, a declaration may be made u/s 6 in respect of the land at any time after the publication of the notification u/s 4(1). It is to be pointed out that the Collector, even under the Bihar Amendment, has not been authorised to do away with the provisions of Section 5-A of the Act in accordance with Section 17(4). That being so, it is manifest that when a notification has been issued by the Collector u/s 4(1), an objection u/s 5-A will always lie and the order of the Collector will always be subject to revision by the State Government at the instance of the objector or any person interested in the land. Such safe-guard being there, it is difficult to accept the argument put forward on behalf of the petitioner that Section 6 of the Act as it stands under the Bihar Amendment, is constitutionally invalid.

15. The declaration made by the Additional Collector on the 22nd July 1969, published in the Bihar Gazette, extraordinary, of July 25, 1969, runs as follows:--

"Whereas it appears to the Deputy Commissioner, Hazaribagh. that land is

required to be taken by Government at the public expense for a public purpose, viz., for expansion of Police Training College, construction of staff quarters, office building, swimming pool, etc., in the village of Sarle No. 159. pargana Champra, zila Hazaribagh, it is hereby declared that for the above purpose a piece of land measuring, more or less, 3.70 acres bounded as the-

North:-- By part of survey plot No. 499. -

South:-- By part of survey plot No. 499 (L.T.C. compound).

East:-- By part of survey plot Nos. 378 (Road) & 498 (Road).

West:-- By part of survey plot No. 499 (St. Xavier School compound and D.V.C.).

is required within the aforesaid village of Sarle No. 159.

... .. This cancels the declaration No. 1405-L.A. dated the 19th October, 1968, published in Part II of the Bihar Gazette, dated the 6th November, 1968 at pages 2519-2520".

The attack on the said notification is on three grounds, namely, (i) that it is not for a public purpose as construction of the staff quarters, office buildings and specially the swimming pool etc., for expansion of the Police Training College could not be a public purpose; (ii) that the declaration does not say that any authority is satisfied that the land is required to be taken by the Government at the public expenses for a public purpose --it merely says that it appears to the Deputy Commissioner that the land is so required; and (iii) that the declaration is made by the Additional Collector although in the notification he says about the alleged satisfaction of the Deputy Commissioner that the land is required for a public purpose.

16. In support of the first point learned counsel placed reliance upon a decision of the Supreme Court in *State of West Bengal and Others and Ramakrishna Mission, Howrah Vs. P.N. Talukdar and Others and Abdul Kadar Laskar and Others*, where it was held at p. 653 (para 13) that construction of staff quarters was not a public purpose. Firstly, it is to be pointed out that under Sub-section (3) of Section 6 of the Act, the declaration is a conclusive evidence which expression has been interpreted by the Supreme Court in some of the decisions to mean conclusive proof of the fact that the land is needed for a public purpose. In other words, the facts of the public purpose are not justiciable. But that is not to say that if on the face of the notification, a purpose is mentioned which cannot be said to be a public purpose, still the courts cannot declare the notification as invalid. If on the face of the notification as in the case of *State of West Bengal and Others and Ramakrishna Mission, Howrah Vs. P.N. Talukdar and Others and Abdul Kadar Laskar and Others*, before the Supreme Court, the purpose disclosed was not a public purpose, the notification would be invalid and struck down. Construction of staff quarters for Ram Krishna Mission for which society the land was acquired in that case was held to be not a public purpose although acquisition of land for construction of hostel buildings and play grounds for the

students was held to be for a public purpose. In the instant case, the land is acquired for expansion of Police Training College which is situated to the south of one of the plots sought to be acquired as would appear from the southern boundary mentioned in the notification. The Police Training College is a public institution and construction of staff quarters, and office buildings are undoubtedly for public purpose. In the present age where the State is endeavouring its best to provide amenities to all as far as possible and raise the general standard of living, construction of swimming pool etc., cannot but also be held to be for public purpose. The word "etc." is of no significance. It can only mean something which appertains to the swimming pool. I am, therefore, definitely of the view that the acquisition of the land is for a public purpose and for nothing else on the face of the notification. No facts have been placed nor, could they be investigated, to find out whether construction of staff quarters etc., for expansion of the police training college is necessary or not. The first attack therefore, on the notification is repelled.

17. Coming to the second ground of attack on the declaration contained in annexure 4, I should think that it is advisable if the declaration states in an express language that the authority making it is satisfied that any particular land is needed for a public purpose. But even in absence of that, if the language used is with the expression "it appears", still it has been held by the Supreme Court in *Rai Bahadur Ganga Bishnu Swaika and Others Vs. Calcutta Pinjrapole Society and Others*, that it is not imperative that the satisfaction must be expressed in the declaration or that otherwise the notification would not be in accord with Section 6. In absence of a statutory form u/s 6 requiring the declaration to be made in any particular form "the mere fact that the notification does not ex facie show the Government's satisfaction, assuming that the words "it appears" used in the notification do not mean satisfaction, would not render the notification invalid or not in conformity with Section 6". The model form 7 framed under Executive Instructions of the Government of Bihar uses the expression "it appears" which was exactly the form in Bengal wherefrom the case went to the Supreme Court in *Rai Bahadur Ganga Bishnu Swaika and Others Vs. Calcutta Pinjrapole Society and Others*, .

18. The third ground of attack on the declaration, annexure 4, is well-founded and is sufficient for the quashing of the said declaration. In this particular case the notification u/s 4 seems to have been issued by the Additional Collector of Hazaribagh. He is the authority who heard and decided the objection filed by the petitioner-company. Within the meaning of Clause (c) of Section 3 of the Act, as it stands under the Bihar Amendment, the Additional Collector is the Collector. It was, therefore, not open to him to say in the declaration that it appeared to the Deputy Commissioner of Hazaribagh that land was required to be taken by the Government at public expense for public purpose. There is nothing to indicate, as no materials have been placed on behalf of the State before us that the declaration in writing in fact was by the Deputy Commissioner the declaration was merely notified by the Additional Collector. On the other hand, on the facts

and in the circumstances of this case, it seems reasonably clear that all steps were taken by the Additional Collector on his own, in exercise of his authority. It was his satisfaction which he purported to declare u/s 6 by the notification contained in Annexure 4 but while doing so instead of stating his own satisfaction, he referred to the satisfaction of the Deputy Commissioner. The notification containing the declaration u/s 6, therefore, in my opinion, is invalid on that account.

19. In the result, the application in C.W.J.C. No. 1174 of 1969 is allowed, the declaration dated the 22nd July. 1969 contained in Annexure 4, is quashed and the respondents are restrained from taking any further steps on the basis of the said declaration without issuance of a fresh and another declaration, if necessary, in accordance with law. There will be no order as to costs. C.W.J.C. No. 604 of 1969 is dismissed as being infructuous. There will be no order for costs in that case either.

G.N. Prasad, J.

20. I agree.