

(1969) 09 DEL CK 0016
In the Delhi High Court
Case No : Civil Writ No. 834-D of 1963

Labh Singh Atma Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 18-09-1969

Acts Referred:

Citation : AIR 1970 Delhi 171

Hon'ble Judges : V.S. Deshpande, J

Bench : Single Bench

Advocate : Bhawani Lal and Santosh Gupta, for the Appellant; S.L. Pandhi, for the Respondent

Judgement

1. The petitioner and respondent No. 4 are occupants of acquired evacuee property being House No. 324/20, Suman Bazar, Bhogal, New Delhi. The petitioner is a non-claimant, while respondent No. 4. Was a claimant. The petitioner's application for the division of the property was rejected by Shri K. K. Mittal, Managing Officer, who ordered in June 1959, as per annexure "B" to the writ petition, that the Assistant Settlement Commissioner be asked to adjust the amount out of the claim of respondent No. 4 (by transferring the property to him). The appeal of the petitioner against the order of Shri K. K. Mittal was accepted by Shri I. D. Chaudhry, Assistant Settlement Commissioner, on 11-1-1960, as per annexure "C" whereby the order of Shri Mittal was set aside and the case was remanded for the determination of the eligibility of the property for division by the Settlement Commissioner under the then existing Rule 30 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955. The petitioner contends that his original application for the division of the property was revived, but the petitioner did not make any fresh application for the partition. The Regional Settlement Commissioner without issuing any notice to the petitioner ordered on 16-1-1962 for adjustment of part value of the property against compensation payable to respondent No. 4. The petitioner's appeal against the order dated 16-1-1962 was disposed of by Shri Parshotam

Sarup, Deputy Chief Settlement Commissioner on 21-7-1962 as per annexure "D" to the writ petition. He accepted the appeal, set aside the order dated 16-1-1962 and remanded the case with the direction that the question of divisibility and eligibility of the property qua parties may be determined after hearing them. The order after such hearing was passed by Shri A. L. Behl, Settlement Officer, with the powers of the Regional Settlement Commissioner, on 6-11-1962, as per annexure "E" to the writ petition, holding that the property was not divisible.

The revision of the petitioner to the Chief Settlement Commissioner u/s 24(1) of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 hereinafter called "the Act"), was dismissed by Shri N. P. Dube, Chief Settlement Commissioner, on 20th May 1963, as per annexure "F" to the writ petition, firstly on the ground that no proceeding for the partition of the property was pending on 31-12-1960 and, Therefore, the Rule applicable to the case of the parties was the amended Rule 30, which did not provide for partition of the property; secondly, even if it was assumed that a partition proceeding was pending on 31-12-1960 and the unamended Rule 30 was applicable, then on merits the Chief Settlement Commissioner held that the learned Counsel for the petitioner had not been able to convince him that there is a case on merits for the partition of the house. There was concurrent finding of two officers holding that the property was indivisible and Shri Bahl's order explained why it is so in detail. The Chief Settlement Commissioner saw no reason to differ from their conclusion. He, Therefore, held that the property could not be partitioned and ordered that it should be transferred to respondent No. 4.

2. The petitioner then applied to the Central Government u/s 33 of the Act for setting aside the order of the Chief Settlement Commissioner. The Central Government, however, dismissed this application on 17-7-1963, as per annexure "C" to the writ petition on the ground that it was no reason to interfere with the order of the Chief Settlement Commissioner.

3. In this writ petition, the orders of the Central Government at annexure "G" of the Chief Settlement Commissioner at annexure "F" and of the Settlement Commissioner with the powers of the Regional Settlement Commissioner at Annexure "E" are challenged on the following grounds, viz.:-

(a) That the order of the Central Government dated 17-7-1963 at annexure "G" was void for three reasons. Firstly, the Deputy Secretary purported to dismiss the application of the petitioner against an order of the Chief Settlement Commissioner, who was a Joint Secretary. The Deputy Secretary was not authorised to deal with the application on behalf of the Central Government. Secondly, a personal hearing was given to the petitioner by the Central Government before dismissing the application by the order at annexure "G". Lastly, the said order gave no reason for the dismissal of the application.

(B) The order of the Chief Settlement Commissioner at annexure "F", was

challenged on the ground of an error of law patent on the face of the record, inasmuch as he held that no proceeding for partition was pending on 31-12-1960 in respect of the property in dispute, though such proceeding was, in fact, pending. The Chief Settlement Commissioner also did not give any reasons for his order.

(C) The order of the Settlement Commission with the delegated powers of the Regional Settlement Commissioner, was also wrong. He did not take into account the considered opinion expressed by Shri Parshotam Sarup after inspecting the house personally.

4. Respondents Nos. 1 to 3, viz., the Union of India, The Chief Settlement Commissioner and the Settlement Office did not defend the writ petition. Respondent No. 4, however, contests the writ petition and points out that the impugned orders were valid because the order of the Central Government was passed by an authorised officer and that it was not necessary that it should have repeated the reasons given by the Chief Settlement Commissioner or that it should have been passed after giving an oral hearing to the petitioner. The order of the Chief Settlement Commissioner was right in holding that no partition proceeding was pending in respect of the house on 31-12-1960, Further, the Chief Settlement Commissioner decided on merits that the property was not divisible. He validly adopted the reasons for this conclusion given by Shri Bahl. The order passed by Shri Bahl was reasoned order and was correct.

5. The question for decision, Therefore, are as follows:

(1) Whether the order of the Central Government u/s 33 of the Act is liable to be set aside on the grounds that it was passed by an officer not authorised to do so u/s 34 of the Act, because it was passed without giving an oral hearing to the petitioner and because he did not give reasons for the order?

(2) Whether the order of the Chief Settlement Commissioner passed u/s 24(1) of the Act was bad for an error of law apparent on the face of the record and because he did not give reasons?

(3) Whether the order of the Settlement Officer with the delegated powers of the Regional Settlement Commissioner, dated 6-11-1962, was wrong?

6. The communication of the order of the Central Government to the petitioner was by the letter dated 17-7-1963 at annexure "G" to the writ petition. It says that the petitioner's application u/s 33 has been rejected by the Deputy Secretary vide his order dated 12-7-1963. Apparently the order of the Deputy Secretary was passed on the file dealing with the application of the petitioner. The communication to the petitioner is signed by a subordinate officer for the Under-Secretary to the Government of India. The order passed by the Deputy Secretary was a quasi-judicial order by an administrative authority. The functions of the Government are generally classified into three divisions, viz., executive, legislative and judicial.

In *Jayantilal Amrit Lal Shodhan Vs. F.N. Rana and Others*, the majority of the Supreme Court observed at the end of paragraph (10) of the judgment that "functions which do not fall strictly within the field of legislative or judicial, fall in the residuary class and must be regarded as executive." Strictly, judicial functions being performed only by the Courts, the Constitution provides for the performance of only the executive and legislative functions by the Government. Therefore, the quasi-judicial functions performed by the Government or the administrative authorities would be regarded as an exercise of the executive power of the Government, inasmuch as the authority exercising such powers are administrative authorities. The functions are quasi-judicial only in the sense that the rules of natural justice have to be followed before deciding the matter. The exercise of these functions by the Central Government is dealt by Articles 53, 73 and 77 of the Constitution. Article 53(1) says that the executive power of the Union shall be vested in the President and shall be exercised by him either directly or through the officers subordinate to him in accordance with the Constitution. Article 77(3) enables the President to make rules for the more convenient transaction of the business of the Government of India. These Rules are called the Transaction of Business Rules. Under these Rules the business of the Government is authorised to be done by various officers on behalf of the Government. Unless a certain item of business is specified to be done by the Minister himself or by the Secretary himself, the rest of the business can be done by any of the officers of the usual hierarchy in the Ministry, starting at the bottom with the Under-Secretary and ending at the top with the Secretary. The Deputy Secretary is an Officer in this hierarchy. He is, Therefore entitled to transact the business of the Government under the Transaction of Business Rules. It is not, Therefore, necessary for the Government to issue any separate authorisation to these officers for transaction of any particular business on behalf of the Government. In view of this established constitutional position, it was not necessary that the application of the petitioner u/s 33 of the Act should have been heard either by the President himself or by any particular officer. The decision of the Central Government is what may be called an "institutional" decision as distinct from a personal decision, as I had occasion to point out in an Article entitled. "The one who decides must hear", published in 2 Journal of the Indian Law Institute, pp. 423-433 (1960). In such an institutional decision any authorised officer may deal with the business in question on behalf of the Government. The fact that a particular case was dealt with by him cannot be challenged on the ground that the decision under appeal dealt with by him was given by an Officer, who was higher in rank. For, every officer acting for the Government under the Rules of business is acting not for himself, but for the Government. The Government is the highest authority. It was higher than the Chief Settlement Commissioner, who was an officer of the status of a Joint Secretary. It is immaterial if a Deputy Secretary happened to decide this particular case on behalf of the Government. The decision is still of the Government and is, Therefore, by an authority which is superior to the Chief Settlement Commissioner.

7. The Deputy Secretary, who decided the application of the petitioner u/s 33 was apparently not an officer to whom the residuary power of the Central Government to act u/s 33 had been delegated by any notification in the official Gazette issued u/s 34(1) of the Act. As pointed out in *Beli Ram Malhotra Vs. Union of India and Others*, , the use of the word "also" in Section 34(1) shows that this provision of delegation is in addition to the usual machinery established by the rules of business to act for the Government. It is clear, Therefore, that the Deputy Secretary who rejected the petitioner's application was acting for the Central Government under the Rules of business and it was not necessary that he should have been either higher in status than the Chief Settlement Commissioner or that he should have been notified u/s 34(1). The first ground of attack on the order at annexure "G" of the writ petition, Therefore, fails.

8. Was the Central Government bounded to give an oral hearing to the petitioner in dealing with his application u/s 33? The answer to this question must be primarily sought in the provisions of the Act itself. Chapter Iv of the Act is entitled "Appeal, revision and powers of the officers under the Act." Sections 22 and 23 deal with appeals to the Chief Settlement Commissioner. Section 24(1) deals with the ordinary power of revision of the Chief Settlement Commissioner, Section 24(2) deals with the special power of the revision of the Chief Settlement Commissionr in particular cases involving fraud or misrepresentation. Section 24(3) expressly states that no order which prejudicially affects any person shall be passed u/s 24 without giving such a person a reasonable opportunity of being heard. Section 24(4) provides that a person aggrieved by the order of a Chief Settlement Commissioner u/s 24(2) may make an application for the revision of the said order to the Central Government. Section 24, Therefore, provides for a revision by the Chief Settlement Commissioner as also for a revision by the Central Government. Chapter Iv does not give any other power of revision to the Central Government. Chapter V of the Act is entitled "Miscellaneous". Section 33 occurs in this Chapter and it is entitled "Certain residuary power of the Central Government". It enables the Central Government to call for the record of any proceeding under the Act and to pass any such orders as are not inconsistent with any provisions of the Act or Rules made there under.

9. The contention of the petitioner in that the power of the Central Government to act u/s 33 is a power of revision inasmuch as it enables the Central Government to call for the record of any proceeding under the Act just as Section 24(1) enables the Chief Settlement Commissioner to call for the record of any proceeding under the Act. He says that the nature of the power of the Central Government u/s 33 being similar to the nature of the power of the Chief Settlement Commissioner u/s 24(1), the power of the Central Government should be regarded as a power of revision. If the question merely was regarding the nature of this power, there would be no difficulty in regarding the nature of the power of the Central Government as being the same as that of the power of the Chief Settlement Commissioner u/s 24(1). But the question before us is not that of the nature of his power, but of the procedure which the Central

Government has to follow in dealing with an application u/s 33. In this respect, the power of the Chief Settlement Commissioner u/s 24(1) and that of the Central Government u/s 33 are distinct and different from each other. This would be shown by the following reasons:

(a) Section 24(3) itself provides for the grant of opportunity to a person before the order there under is passed against him. Section 33 does not make any such provision. The limitation on the power of the Central Government that its order should not be inconsistent with the provisions of the Act and the Rules must be understood to mean such provisions of the Act and the Rules as would govern and apply to the order passed u/s 33. For instance, it cannot be said that the order u/s 33 cannot be passed without complying with the provisions of Rule 105 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1965, inasmuch as Rule 105 does not apply to an order to be passed u/s 33 as will be shown later

(b) The power given to the Chief Settlement Commissioner and to the Central Government u/s 24 is expressly called the power of revision. On the other hand, the power of the Central Government u/s 33 is called "certain residuary powers" and is not called a power of revision. There are sound reasons for this distinction. A full right of appeal on questions of law and fact having been given to the Chief Settlement Commissioner, the power of revision to the Central Government was restricted only to the cases of payment of compensation obtained by fraud or misrepresentation u/s 24. These revisional remedies were thought to be sufficient inasmuch as the Act also provides for full hearing by the Officer passing the orders and also by the appellate Officers. The hearing provided to a party before the Officer passing the order and before the appellate authorities and the revisional authorities was apparently thought to be sufficient by the legislature. This was why no hearing was provided for u/s 33

(c) Chapter xviii of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 is entitled "Procedure for Appeal Review and Revision". It is an elementary principle of the construction of statutes that the same word is used for the statute in the same sense unless the context indicates otherwise. On the same principle the words used in the Act are deemed to be used in the same sense in the Rules framed there under.

Chapter xviii of the Rules, Therefore, would apply only to the appeals, review and revision in the sense in which these words are used in the Act. It would follow, Therefore, that Chapter xviii would not apply to "certain residuary power of the Central Government" exercisable u/s 33 of the Act. When, therefore, R. 105 applied the procedure of Order 41 of the CPC to the appeals and revisions under the Act, it must be understood that Order 41 was made applicable only to the proceedings under Sections 22, 23 and 24. The proceedings u/s 33 were neither appeals nor revisions and Rule 105 could not, Therefore, be understood to have applied Order 41 of the CPC to those proceedings. It would be against all canone of interpretation of statutes to hold that Section 33 deals with proceedings in

appeal or in revision when the Act specifically restricts the appeals to Sections 22 and 23 and revision to Section 24. The very fact that the legislature thought it fit to use the words appeals in Sections 22 and 23 and revision in Section 24, while using the words "residuary powers" in Section 33 is sufficient to show that the legislature wanted to call these three different powers by three different names and to keep them distinct and different from each other. We are not entitled, Therefore to apply Rule 105 to the proceedings u/s 33 merely because the power exercisable there under by the Central Government may in some respects be similar to the power exercisable by the Chief Settlement Commissioner u/s 24(1). In fact, it is only the nature of the two powers that is similar. Everything else regarding them is different. While powers under S. 24 is exercised in every case, the power u/s 33 is a residuary power which is hardly, if ever, exercised. It is not exercised as a matter of course. The power u/s 24 is exercised by a definite officer appointed under the Act but the power u/s 33 is just kept in reserve for the Central Government as a last resort if needed in any special case. It is exercised by an institution and not by any particular person. As the proceeding u/s 33 is neither an appeal nor a revision within the meaning of the Act and the Rules, Rule 105 does not apply to it and, Therefore, an oral hearing could not be claimed by the petitioner u/s 33 by replying upon Rule 105.

10. It may be next considered whether apart from the provisions of the Act, natural justice required that an oral hearing must be given by the Central Government to an applicant u/s 33. In *Bharat Barrel and Drum Mfg. Co. Vs. L.K. Bose and Others*, , the Supreme Court observed in Paragraph (9) of the judgment that

"while considering the question of breach of principles of the natural justice, the Court should not proceed as if they are inflexible Rules of natural justice of universal application. The Court has to consider in each case whether in the light of the facts and circumstances of that cases, the nature of the issue involved in the inquiry, the nature of the order passed and the interests affected thereby, a fair and reasonable opportunity of being heard was furnished to the person affected."

A similar approach to the question was made in the *New Prakash Transport Co. Ltd. Vs. New Suwarna Transport Co. Ltd.*, , where the Court laid down the following guiding criteria:

"Rules of natural justice vary with the varying circumstances of statutory bodies and the rules prescribed by the legislature under which they have to act and the question whether in a particular case they have been contravened must be judged not by any preconceived notion of what they may be put in the light of the provisions of the relevant Act."

11. Let us examine the circumstances of this particular case in the light of the above observation. Firstly, the petitioner in this case had a full hearing by two officers and thereafter by the Chief Settlement Commissioner u/s 24. It is well

established that if oral hearing has once been given to a party it is not necessary that it should be repeated at the subsequent stage of the proceeding. In *S. Kapur Singh Vs. Union of India (UOI)*, , the appellant had been given an oral hearing during the departmental inquiry. On consideration of the report of the Inquiry Commissioner, the President of India gave the appellant notice to show cause why he should not be dismissed from the Government service. The appellant submitted written presentation to the President in response to the show cause notice, but was not heard orally by the President. When he complained that the denial of an oral hearing by the President was a breach of natural justice, the Supreme Court repelled that contention by the following words at the end of paragraph (23) of the judgment:-

"An opportunity of making an oral representation not being in our view a necessary postulate of an opportunity of showing cause within the meaning of Article 311 of the Constitution, the plea that the appellant was deprived of the constitutional protection of that Article because he was not given an oral hearing by the President cannot be sustained."

12. Section 188 of the Sea Customs Act, 1878 provided for an appeal to the Chief Customs Authority and Section 191 of the said Act provided for a revision to the Central Government. In *F.N. Roy Vs. Collector of Customs, Calcutta*, , the petitioner complained that he was not given a personal hearing in the appeal u/s 188 and in the revision u/s 191. The Supreme Court negated the contention in paragraph (11) of the Judgment in the following words:-

"There is no rule of natural justice that at every stage a person is entitled to a personal hearing."

13. Right from the inception there has been a complete consensus of judicial decisions that a right to a personal hearing is not a necessary part of audi alteram partem rule. In *Board of Education v. Rice* 1911 Ac 179, the House of Lords held that the Board having followed the procedure indicated by the rules framed under the statute in question, there was no further obligation on the Board to hear the appellant either personally or through his representative or counsel because there was no indication in the statute to that effect. In *Local Government Board v. Arlidge* 1915 Ac 120, the procedure in the appeal was to be such as the Board might by rules determine. The House of Lords observed that what the procedure is to be in detail must depend on the nature of the Tribunal. The Minister is at the head of the Local Government Board. The volume of work entrusted to him is very great and he cannot do the great bulk of it himself. When, Therefore, the Board is directed to dispose of an appeal, it does not mean that any particular official of the Board is to dispose of it. In these circumstances, Lord Haldane, L.C., concluded by the words "I do not think the Board was bound to hear the respondent orally provided it face him the opportunity he actually had." These two Houses of Lords decisions have been quoted with approval by the Supreme Court in numerous decisions beginning with *A.K. Gopalan Vs. The State of Madras*, . In paragraph (3) of the judgment in *Gopalan's case* Kania, C.

J., observed as follows:-

" I am not prepared to accept the contention that a right to be heard orally is an essential right of procedure even according to the rules of natural justice. The right to make a defense may be admitted, but there is nothing to support the contention that an oral interview is compulsory."

14. It is to be further noted that Displaced Persons (Compensation and Rehabilitation) Act, 1954 and the Rules framed there under have established the authorities and officers acting there under all over India. In respect of the orders passed by all of them, the Central Government alone can act u/s 33. This is similar to the arrangement under the Mines and Minerals (Regulation and Development) Act, 1948 and the Rules made there under by which the Central Government has been given the power of review against the orders passed by all State Governments. In Shivji Nathubhai Vs. Union of India (UOI) and Others, , the counsel for the appellant had argued in para (3) of the judgment that it was incumbent on the Central Government to "hear" the appellant before deciding the review application. The Supreme Court, however, held in paragraph (9) of the judgment that it was incumbent on the Central Government to give a reasonable opportunity to the appellant to represent his case. It is significant that the Court did not use the word "hear", but only used the words "a reasonable opportunity to represent his case". It was apparent that the Court was not emphasising the oral hearing, but merely the necessity of an opportunity, which may mean an opportunity to make a representation in writing, but without an oral hearing. Therefore, when the question again arose in M. P. Industries Ltd., v. Union of India Air 1906 Sc 671, Subba Rao, C. J., observed in paragraph (10) of the judgment as follows:

"As regards the second contention, I do not think that the appellant is entitled as of right to a personal hearing. It is no doubt a principle of natural justice that a quasi judicial tribunal cannot make any decision adverse to a party without giving him an effective opportunity of meeting any relevant allegations against him. Indeed, R. 55 of the Rules, quoted supra, recognises the said principal and states that no order shall be passed against any applicant unless he has been given an opportunity to make his representations against the comments, if any, received from the State Government or other authority. The said opportunity need not necessarily be by personal hearing. It can be by written representation. Whether the said opportunity should be by written representation or by personal hearing depends upon the facts of each case and ordinarily it is in the discretion of the tribunal. The facts of the present case disclose that a written representation would effectively meet the requirements of the principle of natural justice."

15. A little reflection would show that it would be impossible for the Central Government to summon applicants from all over India to come to New Delhi merely for the purpose of an oral hearing. The slightest acquaintance with the functioning of the Central Government would show that the Central Government

cannot deal with applications u/s 33 as Courts would have done. Further at various stages under the Act and the Rules, full oral hearing is given to the petitioner and it was not, Therefore, thought necessary by the legislature to give oral hearing u/s 33. This is why the legislature deliberately refrained from providing in Section 33 for the grant of any hearing to the applicant and the Central Government did not provide for an oral hearing to applicants u/s 33 in framing the Rules under the Act. A perusal of Rule 105 would show that the Central Government was clearly aware of what was meant by "oral hearing" and when it should be given and when it should not be given. Therefore, after providing for the application of Order 41 of the CPC to appeals and revisions, it added a proviso to Rule 105 giving "Oral hearing" to an applicant u/s 24(4). It is significant that the application u/s 24(4) is by way of revision to the Central Government. The Central Government was careful to provide for an oral hearing to such an applicant, but was equally careful not to provide for any oral hearing to an applicant u/s 33. As observed by the Supreme Court in *Madhya Pradesh Industries Ltd. Vs. Union of India and Others (UOI)*, in the absence of any provision by the statutes and the Rules, it is in the discretion of the Tribunal to give opportunity either by a written representation or by a personal hearing depending on the facts of each case. As a rule, the Central Government does not find it necessary to give oral hearing to an applicant, inasmuch as the likelihood of injustice being done to an applicant after he had oral hearing before a number of officers acting under the Act was very small. But if the Central Government were of the view that a certain point could not be understood by it except in oral hearing, it would be open to the Central Government to give oral hearing to an applicant in a special case. It is for the Central Government to decide whether it cannot understand a certain case except with the help of an oral argument. It is not for the petitioner to insist that he must be heard orally. The order passed by the Central government u/s 33 was not, Therefore, in any way vitiated because it was passed without giving an oral hearing to the petitioner.

16. The order is not a self-contained one and does not itself give the reasons for the dismissal of the application of the petitioner . was it incumbent on the Central Government to give such reasons in the order itself? After an exhaustive review of the case law, the question has been answered in the negative by the Supreme Court in *Bharat Raja Vs. The Union of India (UOI) and Others*, . The principle laid down by the Supreme Court in paragraph (9) of the judgment in that case was this. Where the State Government gives sufficient reasons for its order, the Central Government in affirming the said order may adopt the reasons given by the State Government without repeating them. But, where the reasons given by the State Government were scrappy and nebulous the Central Government must clarify them. Similarly, if the State Government gives reasons some of which are good and some are not the Central Government should state which of them weighed with it in upholding the order of the State Government. In the present case, the order of Shri N. P. Dube, Chief Settlement Commissioner, passed on 20-5-1963 at annexure "F" of the writ petition, is a

fully reasoned order. It cannot be said that the reasons given in that order are either nebulous or scrappy or that some reasons are good and some are not. According to the test laid down by the Supreme Court, Therefore, it was open to the Central Government, to agree with that order without repeating the reasons given therein. I, Therefore, find that the order of the Central Government was not bad for not having repeated the reasons with which it agreed.

(2) The order of the Chief Settlement Commissioner Shri N. P. Dube, took the view that no proceeding for partition was pending on 31-12-1960. This view was arguable inasmuch as the petitioner did not move the Assistant Settlement Commissioner for the division of the property in accordance with the observation at the end of the remand order dated 11-1-1960. The petitioner merely filed an appeal against the order dated 16-2-1962, which was decided by Shri Parshotam Sarup on 21-7-1962. It could be said, Therefore, that between 11-1-1960 and 16-2-1962 there was no proceeding pending for partition of the property. The order could not be said, Therefore, to be bad for error of law apparent on the face of the record. Further, the Chief Settlement Commissioner alternatively assumed for the sake of argument that a partition proceeding was pending on 31-12-1960 and held that the property was not partible. Again Shri N. P. Dube fully agreed with the reasons given by Shri Behl and did not think it necessary to repeat those reasons on the principle laid down by the Supreme Court in Bhagat Raja's case, because Shri Dube was entitled to adopt the reasons given by Shri Behl in his order dated 6-11-1962 at annexure "E" to the writ petition. The order of Shri Dube was not, Therefore, bad for want of reasons.

(3) The order of Shri Behl passed on 6-11-1962 is a fully discussed and reasoned order. It was not shown to be wrong in any respect. Further, the merits of the questions decided therein are for the officer acting under the Act to decide. It is not for this Court to go into the merits as this Court is not sitting in appeal over those orders.

17. The learned Counsel for the petitioner relied upon the view expressed by Tatachari, J., in C.W. No. 367 of 1967, D/- 29-10-1968 (Delhi) (Smt. Bishan Devi v. Union of India), that the applicant u/s 33 of the Act was entitled to a "hearing". The impugned order in that case, however, suffered from other defects, which are not present in the case before me. On facts, Therefore, the case before Tatachari, J., is distinguishable from the one before me. This would explain the different conclusions at which we have arrived.

18. For the above reasons, the writ petition is dismissed. No order is made as to costs.

19. Petition dismissed.