

(1983) 03 GAU CK 0013

In the Gauhati High Court

Case No : Civil Rule No. 1062/82/12/83 and Civil Rule Nos. 1084/82/13/83 to 1092/82/21/83

Md.Abdurma and Others

APPELLANT

Vs

State of Manipur and Others

RESPONDENT

Date of Decision : 22-03-1983

Acts Referred:

Land Revenue and Land Reforms (Allotment of Land) Rules, 1962 — Rule 12, 12, 5, 5
Manipur Land Revenue and Land Reforms Act, 1960 — Section 14(1), 14(1), 14(2), 14(2)

Citation : (1983) 2 GLR 1

Hon'ble Judges : K.Lahiri, J and T.C.Das, J

Bench : Division Bench

Advocate : B.L.Singh, L.Nanda Kumar Singh, S.K.Senapati, Th.Munindia Kumar Singh, Advocates appearing for Parties

Judgement

Lahiri, J.—The bunch of writ applications are directed against an order of allotment of land to Respondents 4 and 5 made by the Government of Manipur in exercise of the powers under section 14 (2) of the Manipur Land Revenue and Land Reforms Act, 1960, for short "the Act". The validity of the allotment order has been questioned by the petitioners on the following grounds:

1. That the impugned order did not spell out "the purpose for which the allotment was made", which is a condition for allotment of land u/s. 14 (2) of "the Act".
2. That the order of allotment was made without considering the claims of the petitioners, who had applied for the land long before Respondents 4 and 5.
3. That Respondents 4 and 5 were neither landless nor poor, so they were not entitled to allotment in view of the provisions contained in Rule 7 of the Manipur Land Revenue and Land Reforms (Allotment of Land) Rules, 1962, for short "the Rules", framed under "the Act".

4. That the order of allotment was made without giving a reasonable opportunity to the petitioners which was violative of the principles of natural justice.

2. The relevant facts necessary for getting a grip for disposal of the debates at the bar are set out herein below :

The petitioners claim that they are poor and landless persons and each in occupation of Government Khas land in Imphal Town, comprised within C. S. Dag No. 1658 of Municipal sheet No. 12. They have constructed hutches. They are carrying on business on the land. As they were landless and the area was Khas land of the Government, they made applications to the Deputy Chief Minister incharge of Revenue for allotment of the plots under their occupation. The applications were sent to the Deputy Commissioner, Central, for enquiry and report, whereupon the SubDivisional Officer, made necessary enquiries and submitted a report stating that the petitioners had been in occupation of the plots claimed by them. However, it was also reported that the entire area had been kept reserved for the development of shopping Centres by the authority under the Manipur Town and Country Planning Act, 1976. It was also stated that the petitioners had desired to carry on business there. Thus, the claims of the petitioners were favorably recommended by the Subdivisional Officer. While the matter was under active consideration of the government the petitioners could learn that 1.01 acre of land, in occupation of the petitioners, had been allotted to Respondents 4 and 5, The petitioners claimed that Respondents 4 and 5 were about to pay the premium and take delivery of possession of the allotted land, so they were compelled to file these writ applications questioning the validity of "the allotment order".

3. The Respondents, however, claim that the petitioners were not in occupation, and/or no business was carried by them on the land, and they did not make any application for getting the land for business purposes. According to the Respondents the petitioners had applied for residential purposes. The land was earmarked by the Planning and Development Authority for "shopping Centre", so the petitioners were ineligible for the allotment. The Respondents claim that the purpose of allotment was inadvertently omitted in the allotment order dated 27.8.82 but a corrigendum dated 28.8.82 was issued by the State Government stating that the land had been allotted to Respondents 4 and 5 for "Hotel Touristcumshopping Centre". The corrigendum has been annexed as RI. Respondents 4 and 5 have established by documents that they entered into an Agreement with the Government, paid premium amounting to Rs. 83,450.20 on 1.9.82, whereas the writ petitions were filed on or about 30.9.82. The Respondents claim that the provisions of Sec. 14 (1) of "the Act" and Rules 7, 9 or 10 of "the Rules" are inapplicable as the allotment was made by Government under Section 14 (2) of "the Act". The respondents denied that the allotment was made without considering the claims of the petitioners. It has been stated that in 1975 Respondent No. 5 approached the State Government for allotment of Government Khas land in C. S. Dag No. 2965 (P) in Sheet No. 16 of the Imphal

Municipality and it was allotted to him but later it was found that the land was required for the Imphal Public Library so the Government requested Respondent No. 5 to relinquish his claim over the allotted land provided an alternative site was given. Thereafter, Plot Nos. 21 and 22 were found available by the Government. Respondent No. 4 had already applied for allotment of a plot of land inside the Bazar Area for running his business. On the basis of the said application and as recommended by the Deputy Commissioner, the State Govt. allotted Plots 21 and 22 to Respondents 4 and 5 by its order dated 13.11.79. As alluded, Respondent No. 5 had agreed to surrender the land allotted to him previously. But, at the time of delivery of possession of the land in Plot Nos. 21 and 22 it was found that although it was included in the "planned area" of the Town Planner yet it was in occupation of the Assam Rifles, so possession could not be delivered to Respondents 4 and 5. Thus, driven from pillar to post, Respondents 4 and 5 prayed for settlement of the land covered by C. S. Dag No. 1658 in Sheet No. 12 for a Tourist Hotel. They made applications which were duly forwarded to the appropriate authorities, reports called and after a thorough enquiry, the Chief Town Planner informed the State Government that the land in question was meant for development of shopping centres, some segments in the said Dag had already been allotted to others. So, only a portion thereof might be allotted to Respondents 4 and 5 for constructing a Tourist Hotel, as a special ease. The Govt. considered that a Tourist Hotel would serve public interest, accordingly, the Govt. allotted the land in favour of Respondents 4 and 5 for construction of "Hotel Touristcumshop" by the impugned order. After the order of allotment dated 27.8.82. Respondents 4 and 5 entered into an agreement with the State Govt. on 30.8.82, as required under "the Act" and "the Rules". Respondents 4 and 5 relinquished their rights, title and interest over the land which had been allotted to them earlier. In terms of the order of allotment premium of Rs. 83, 450. 20 was also paid. All these have been substantially established by the Annexures marked R1 to 20.

4. It will thus appear that the petitioners as well as Respondents 4 and 5 applied to the State for allotment of the land. However, the applications of the petitioners for the land in question were earlier in point of time, but the applications do not spell out that they required the land for the purpose of industry, business, trade or for public utility. It will be seen from the applications that the petitioners applied and based their claims on two grounds :

1. that they were in occupation of the lands, and,
2. that they were landless persons.

It has not been disputed before us that the land is within the Manipur Town and Country Planning Act, 1976 and was reserved for a particular purpose, namely, for "shopping Centre". The Respondents challenged in their affidavits that the petitioners had no trade or business on the land. The petitioners have failed to produce any material before us to indicate that they carried any trade or business on the land. They could but did not produce any licence or permit from

the Municipal authority to show that have any trade or business. The facts and circumstances of the case clearly show that Respondents 4 and 5 had applied for allotment of land in 1975/1979, they were allotted land but suffered as the State Govt. could not deliver possession of the land allotted to them. The first order of allotment was in 1975, which Respondent 5 had to surrender as it was reserved for Imphal Public Library. Similarly, the second allotment in 1979 was abortive as the Govt. could not deliver possession to the Respondents as it was in occupation of the Assam Rifles authority. Thereafter, the present allotment had been made to Respondents 4 and 5. As such, Respondents 4 and 5 had applied long before the petitioners for allotment but they suffered due to the failure of the Govt. to deliver possession of the allotted lands. Therefore, they applied for allotment of land from 1975 which culminated in the present allotment. However, insofar as the present land is concerned, the petitioners had applied earlier.

5. To appreciate the contention of the petitioner, it is necessary to extract the provisions of Section 14 (1) and (2) (a) of "the Act" :

"14. (1). The Deputy Commissioner may allot land belonging to the Government for agricultural purposes or for construction of dwelling houses, in accordance with such rules as may be made in this behalf under this Act; and such rules may provide for allotment of land to persons evicted under Section 15.

(2). The State Government shall have power

(a) to allot any such land for the purpose of an industry or for any purpose of public utility on such conditions as may be prescribed.

* * *

It will be seen that the Govt. has power to allot land only for the purposes set forth in Sec. 14(2) of the Act". In so far as allotments of land for agriculture purposes or for construction of dwelling houses are concerned, the authority is the Deputy Commissioner. The second striking feature is that allotment u/s. 14 (1) must be made "in accordance with the Rules" but the said condition is conspicuously absent in S. 14 (2). We are somewhat surprised to note it. We feel that the Government must act within the framework of some rules. Otherwise the instrumentalities of the State might act arbitrarily or capriciously. There is potent danger of misuse of power by the authority which might seriously jeopardize public interest. We merely draw the attention of the competent authority to do something positive, to do away with the shortfall by tailoring the law to uphold the constitutional mandates.

6. The petitioners were justified in raising the contention that the purpose of the allotment in question was not set forth in the impugned order marked as Annexure IV and that it was violative of Section 14 (2) of the Act. Surely, the purposes set forth in S. 14 (2) limit the jurisdiction of the State Govt. However, Annexure R. I. is a complete answer to the question. There was an omission in the order of allotment dated 27.8.82 where for the Government by a

Corrigendum No. 21/101/79R inserted the following

"In respect of the construction of Hotel Touristcumshop" after the word "condition" in the ninth sentence of the first paragraph of the order of allotment".

Therefore, we find that the allotment was made by the Government for a positive and definite purpose and hold that the Government had jurisdiction to make the impugned order of allotment n/s. 14 (2) of "the Act". As such, we do not find any merit in the first contention of the petitioners.

7. Let us consider the third contention of the petitioners that Respondents 4 and 5 were not landless persons whereas the petitioners were so and under Rules 6 & 7 of "the Rules" the petitioners' claim stood on a better footing and they were entitled to the preference set forth in Rules 6 & 7 of "the Rules". Rule 6 set forth the order of preference for allotment of land "for agricultural" purposes. It appears that a landless agricultural worker stand above persons holding land in excess of one basic holding. However, Rule 6 is confined to allotment of land (1) for agricultural purposes and (2) by the Deputy Commissioner exercising power u/s. 14(1) of the Act. Similarly Rule 7 deals with the order of preference for allotment of land (1) by the Deputy Commissioner acting under Section 14(1) of the Act, and, (2) for construction of dwelling house. The said Rules are inapplicable in respect of allotment u/s. 14 (2) made by the State Govt. for the purpose of industry or for the purposes of public utility. The provisions of Rules 5 to 12 have been made inapplicable for allotment of any town land. The attention of Mr. S. K. Senapati, learned counsel for the petitioners was drawn to Rule 4 (1) and (2) of the Rules, which are quoted herein below :

"4. (1). Subject to the provisions of subrules (2) and (3) allotment of land belonging to the Government shall be made in accordance with these rules.

(2). Rules 8 to 12 shall not apply to the allotment of any town land".

In fact, Mr. Senapati had no answer to it. Rules 5 to 12 are inapplicable to the allotment of any town land. Admittedly it is a town land and, as such, the provisions of Rules 6 and 7 cannot come in aid of the petitioners. Learned counsel for the petitioners submits that the spirit of the Rules should be applied in respect of allotment of town land as well. We are afraid, we cannot accept the contention. When the Rule making authority specifically provided that the provisions of Rules 5 to 12 shall not apply to allotment of any town land, we cannot circumvent the law and apply the spirit to unmake the law. Again S. 14 (2) does not provide for allotment in accordance with "the Rules", whereas S. 14 (.1; clearly provides so. There is no rule providing any order of preference insofar as the allotment of town land. For the reasons set forth above we do not find any force in the third contention of the petitioner.

8. Now, let us take the second and fourth contentions of the petitioners. It has been contended that the application of the petitioners were not at all considered and that they were not heard before making the order of allotment. Now

admittedly the land was allotted under Section 14 (2) of "the Act" for the purpose of an industry. We have observed that the applications of the petitioners did not state that the land were required for any public purpose. They applied for dwelling houses. The State Govt., in our opinion, could not have allotted the land to them in exercise of the powers under section 14 (2) of the Act for construction of dwelling houses. Therefore, when the petitioners were not entitled to settlement under section 14 (2) of "the Act", the question of consideration or nonconsideration of their applications pales into insignificance as the State Govt. had no power to consider then and allot the land to the petitioners. Mr. Senapati, learned counsel for the petitioners has fairly conceded that the applications of the petitioners did not contain any claim for allotment "for the purpose of industry" and/or ""for the purpose of public utility". However, learned counsel submits that the report of the Subdivisional Officer shows that the petitioners desired the plots "for business". It is true. However, for what business? Unless the nature and character of the business is clearly stated to bring "the business" within purview of the expressions "industry" and/or "public utility", the petitioners could not have been allotted the land u/s. 14 (2). The nature and character of business must be for the purposes contemplated in section 14 (2) of the Act. The word "industry" in a broad sense includes any department or branch of art, occupation or business as a means of livelihood or for profit; establishment which employs labour and capital. The term may include within its scope shops and establishments. A hotel business is an industry even in the limited sense of the term "Industry". In our opinion, provisions of section 14 (2) attracts land for the use of public utility and not private utility. The expressions "public utility" may mean privately owned or operated business whose services are essential to the general public. The expressions may include a business or service which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need; any agency, instrumentality, business, industry or service which is used or conducted in a manner so as to effect the community at large, that is which is not limited or restricted to any particular class of the community. A test for determining if a concern is a "public utility" is whether it has held itself out as ready, able and willing to serve the public. The expressions imply a public use of an article, product, or service, to serve the public. The expressions are synonymous with public use. Therefore, allotment of land for dwelling house to an individual cannot be held to be for running an industry or for public utility. However, hotels establishments and other establishments of the character referred to above which serve the public do fall within the expressions "for the purpose of an industry" and "for any purpose of public utility". It is true that the petitioners claim in the writ petitions that they wanted it for running their business. But the nature and quality of the so called business was not spelt out in the applications for the allotments. Under these circumstances when there is nothing to show that the nature of the so called business was "for the purpose of an industry" or "for the purpose of public utility", the applications could not have been entertained by the authority. Let us assume that by the vague term "business" used in the petitions they can claim

allotment under section 14 (2) of "the Act". Admittedly the area was reserved as "shopping centre". The land was allotted for a "Tourist Hotelcumshop". Now, petitioners themselves say that they are poor and have no means to purchase the land at the market price. Could the allotment be made in their favour for constructing a Tourist Hotelcumshop, when they had no fund even to purchase the land? This apart, we find that the petitioners did not produce any licence, permit or any document to show that they had any business or trade on the land. Learned counsel for the petitioners has fairly conceded that the petitioners had no licence or permit or document to show that they were carrying on any trade or business nor is there any material to show that they had made any endeavour to commence any business on the land or elsewhere. Now, the petitioners themselves admit that respondents 4 and 5 are capable to construct the Tourist Hotelcumshop as they have the money. The premium of the land is about Rs. 84 thousand. On it a building shall have to be constructed for the Hotelcumshop which will surely cost a large amount. Further, requisites are needed for running an industry or establishment like a TouristHotelcumshop. These are not disputed by Mr. Senapati, learned counsel for the petitioners. Could the petitioners individually or collectively have the financial capacity to pay the premium, construct the building and purchase the requisites for running the business? We repeatedly asked learned counsel for the petitioners as to whether the petitioners have had the ability, capability or might. Silence was the best refuge, so the learned counsel for the petitioners remained silent. We say he is justified. They have no such means, as they are poor, landless persons having no means to purchase lands at the market price, as frankly admitted by them in their writ petitions. In our opinion the present allotment for the purpose of Hotelcumshop in favour of the petitioners could not have been made in their favour. So the allotment to respondents 4 and 5 is surely just, proper and reasonable. Secondly on the facts and circumstances of the case, when this particular plot was earmarked by the Planning Authority for "Shopping Centre", the State Government could not have allotted to the petitioners who did not apply for getting the land for the purposes mentioned in S. 14 (2) of "the Act". Thirdly, Respondents 4 and 5 are also sufferers. They had applied for allotment of land from 1975/1979 and had been allotted land but for the defaults of the State Government they did not get the lands, although they had paid the premiums. Therefore, their applications for allotment of land was surely prior to those of the petitioners, may not be for this particular land. Fourthly, their claim is strengthened by the petitioners who stated that Respondents 4 & 5 were competent to construct and run the Tourist HotelcumShop. Therefore, insofar as competence is concerned, Respondents 4 and 5 stood far above the petitioners. Insofar as eligibility is concerned, we find that Respondents 4 and 5 are more eligible to run the Tourist HotelcumShop. In fact, Mr. Senapati, learned counsel for the petitioners stated that in view of the poverty of the petitioners, even if the lands are allotted to them they would not be able muster fund to construct the building and run the Tourist Hotelcumshop on the plot. We cannot shut our eyes to the relevant fact that Imphal is the Capital of Manipur, a growing town: it

has been stated at the bar that there is dearth of good Hotels at Imphal. We entirely agree to the opinion of the bar that construction of a good Hotel would be a facelift for the town of Imphal. The area being reserved for a purpose by the Town Planner, the objects of the Town Planner would be frustrated if the petitioners are permitted to construct hutches and allowed to run "teastalls" or business of the like nature. The provision of section 14 (2) are projected to achieve certain positive purposes. To serve those purposes, it is difficult for us to accept, it should have been allotted to the petitioners for construction of their dwelling houses and/or small huts to open tea stalls or establishments of the like nature. Learned Government Advocate has categorically stated that the State Govt. had considered the application of the petitioners but could not allot the land notwithstanding their best intention for the reasons alluded by us. There is no striking feature on which we can say that the claim of the petitioners was near equal OF out balanced the claim of Respondents 4 and 5. Learned Counsel for the petitioners could not satisfy us that on any ground whatsoever, except that they are in unauthorized occupation of the land, there was any ground for holding that injustice was done to the petitioners in not allotting the land. It would be a futile exercise if the matter is sent back to the State Government for reconsideration because on the basis of the admitted position the question of allotment of the land to the petitioners for the purposes cannot be justified. It is difficult for us to hold that the applications of the petitioners were not considered by the State Govt., as the averments stand categorically contradicted by the State. That apart, in the setting of the case, we cannot say that the order of the State Govt. requires a fresh consideration.

9. The last point is that the petitioners were not given a reasonable opportunities to submit their say before the allotment was made by the State Govt. When notifications are made for allotment and applications come for consideration, the questions like eligibility, ineligibility or competence and various other relevant consideration do crop up. We have no hesitation in saying that it is the bounden duty of the authority to give a hearing. The world of ours is different from what it was only a couple of years ago. Even a common man makes a grievance about violation of Natural Justice in all spheres of activities, as it has been deeply ingrained in our socioeconomic marrow by the laws propounded by the Supreme Court. The collocation of the expressions "Natural Justice" is not a static idea. It has various vistas, and naturally, we cannot imprison it in a cast iron formula. It is a product of "Civilised Jurisprudence" that no action should be taken against a person to affect his right or interest, without giving atleast a reasonable opportunity to him. The nature and standard of opportunity may vary from case to case, from authority to authority and also in relation to the same authority. What about inconvenience to provide hearing in matters which affect right of a person? There may be some exceptional cases, but generally speaking, convenience or inconvenience of the authority cannot deprive a person to provide reasonable opportunity to such a person. The rule obligates all public authorities in the exercise of legal power to follow the rule obediently and diligently. The rule

which has been respected the world over cannot be slaughtered or sacrificed at the altar of administrative celerity. In some areas, justice and convenience are not on speaking terms, as pointed out by Lord Atkin in *G. M. C. of Medical Education vs. Spackman* (1943) A. C. 627. Since *Dr. Binapani Dei*, AIR 1967 SC 1269, it is the law of the land that even an administrative order OF decision involving civil consequences has to be made consistently with the rules of natural justice. The distinction between quasijudicial and administrative decision was mollified in *Binapani*. Thereafter, we have *A. K. Kraipk*, AIR 1970 SC 150 and a number of other decisions of the Supreme Court. In some cases, in view of the necessity of taking emergent or speedy action it may not be possible to provide hearing before taking action. However, it is untenable hearsay to lockjaw the victim of an act done behind his back by tempting innovation of urgency, unless the clearest case of public injury flowing from the least delay is evident. However, the glory of law is not that sweeping rules should be laid down. The principles must be tailored to meet practical needs. There must be pragmatic balance between the two vital competitive requirements, namely acting urgently and at the same time acting fairly. What about the need of expeditious disposal? In *Wiseman vs. Borneman*, 1971 AC 297(308) Lord Read has given a hint about the competitive claims of "hurry and hearing" in the following words :

"Even where the decision has to be reached by a body there must be a balance between the need of expeditious and the need to give full opportunity to the defendant against him."

It follows, therefore, the label that an order is purely administrative in nature and character is inconsequential. The relevant consideration is whether the effect of the order has adverse consequence to the person. If we just recall what was said in *Maneka Gandhi*, AIR 1978 SC 597 and in *Ramanna vs. International Airport Authority*, AIR 1979 SC 1628, we find that it has been ruled by the Supreme Court that violation of the principles of natural justice is to disregard the constitutional mandates under Article 14 and also the judicially involved rule of administrative law. There are exceptional cases where the rules of "audi alteram partem" are inapplicable. However, it can only be so when the statute conferring the power has clearly and specifically excluded its application in express language. Such cases do not involve any problem. However, when the statute conferring the power does not expressly rule out its application but exclusion is sought and where the courts find it difficult to apply it due to the presence of some relevant factors or urgent and special case, considering that it would be unsafe to apply the rule in those cases, the rules may not be applicable.

10. Turning to the instant case we find that a citizen is given that statutory right to get allotment under "the Act". There is no provision excluding the application of the principle of natural justice, either expressly or indirectly. Under these circumstances, we are constrained to hold that while acting under section 14 (2) the State Government should give reasonable opportunity to the applicants to submit their say, before making the order of allotment. Now, the question crops

up as to whether, in the instant case, the impugned order is liable to be set aside and the matter should be remitted to the State Govt. to make another exercise. In the instant case the allotment has already been made. Respondent 4 and 5 have deposited large amount and it is for public purpose and the allotment has been made for public good and/or public purpose. We have given enough opportunity to the petitioner to give a handle to enable us to remit the matter back to the Govt. for reconsideration, maintaining the statusquo. But learned counsel for the petitioner could not show us any plausible ground on which the matter may be remitted back to the Government for reconsideration. We have considered the case of the petitioners very sympathetically and compared the claim of Respondents 4 and 5, and, we ourselves have reached the conclusion that the petitioners were ineligible or at least incapable of taking the allotment for the purpose. We have also held that the Govt. could not have granted allotment under section 14 (2). It would be merely time consuming exercise. In the absence of any plausible ground on which we can presume that the order may be set aside, it will be a futile exercise, loss of money, expenditure, waste of time for the petitioners, who will be prejudiced and as such we do not desire to remit the case back while maintaining status quo or quash the order and remit the back to the Govt. We have reached the conclusion that in the setting of the present case, the petitioners are not entitled to get allotment of the land covered by the plot for the reasons alluded. We are conscious of the rule laid down by Lord wright in Errington vs Minister of Health (1935) 1 KB 249 that where fair hearing could not be given the Court should not uphold the order holding that on merit it would make no difference. The view that "the result in obvious from the start" is much discouraged the world over. However, notwithstanding such discouragement, reliefs have been refused in such cases holding that it would be futile to remit the case back for giving a fresh bearing. We follow the dicta of Lord wright but hold that the remedies which are available in Natural Justice cases which we still call them by their old names in Norman French Certiorari, mandamus and prohibition, the reliefs are discretionary. Such discretionary relief can be withheld if the Court thinks fit and proper to refuse the relief in some cases, particularly in the case of an unmeritorious petitioner. We hold that it is a such a case. We are confirmed that the petitioner shall be adversely affected if the matter is sent back they will be loser in money, time & energy which they cannot bear in view of their status. Instead we propose to make certain observations which might help them to get appropriate relief. Under the circumstances we do not find any reason to interfere with the impugned order.

11. We state that one of the main object of "the Act" is "land reforms." India is a democratic socialist country. The main thrust of Part IV of the Constitution as well as the object of "the Act" is to uplift the poor and the needy. Under Section 11 of the Act" the Govt. is the owner of the lands in Manipur, except some specific lands Under the Town and Country Planning Act there must be areas earmarked for residential and/or residential cum business purposes. The "the Act" and the rules framed there under do contain provisions for giving preference to persons

ejected under Section 15 of "the Act". The petitioners shall be evicted, to give effect to the impugned order. Learned Govt. Advocate Manipur has stated during the course of argument that there are various "khas lands" within the town which have not yet been allotted to any person and it may be possible to accommodate the petitioners. In fact, their status is "persons about to be thrown out evictable under section 15 of the Act". It appears that such persons who are evicted under Section 15 of "the Act" are given preference provided they are landless agriculturist. Provisions are there to allot land for construction of dwelling houses and landless persons have been given preference. However, there is no provision for giving any preference to evicted persons under Section 15 of "the Act" for constructing dwelling houses. We feel persons who are evicted under section 15 of "the Act", to make room for the rich, should also get preferential treatment under the Rules more so when the Govt. permit them to stay on Govt. khas land with eyes open without taking any action against them. The petitioners are admittedly on the land for a number of years. In view of the allotment order, so many persons are to be thrown out on the street. They shall have to live under the sky. It is very difficult to tolerate it. The appropriate authorities, including the State Govt. should bear in mind, while dealing with allotment of land that the constitution of India assures social and economic justice, equality of status and opportunity and dignity of individual. The State Govt. should bear in mind what Pandit Jawaharlal Nehru warned the nation in the Constituent Assembly about the problem of social changes to come. We quote what Nehruji said :

"The service of India means the service of the millions who suffer. It means the ending of poverty and ignorance and disease and inequality of opportunity. The ambition of the greatest man of our generation has been to wipe every tear from every eye. That may be beyond us, but so long as there are tears and sufferings, so long our work will not be over."

Not only the work of the Government but our work too. We find practically nothing in the Land Reforms Act to ameliorate the sufferings of the poor and down trodden. To accommodate two persons and to provide a multistoried Tourist HotelcumShop, the petitioners and the members of their families will be deprived of their roofs. In place of their small huts, multistored building will decorate the scenerio of the capital. The petitioners will suffer and blame, as they are poor so they did not get appropriate Justice from the State Govt. Law cannot stand aside from the social changes around it nor the policy of the Govt. No good Govt. can bear the sufferings of their subject. Necessary provisions should be made in "the Act" and "the Rules"; while granting allotment preference should be given to the poor and the needy to which class the petitioners belong. It is high time that it should be done, otherwise the future is fraught with danger.

12. We have been repeatedly told at the bar and particularly by the learned Govt. Advocate that lands are available within the town area for construction of

dwelling house and/or residentialcumtrade or business site. The petitioners are poor. They have claimed that they are landless. Their applications for allotment of land, may be for a particular land, are already before the authority. We feel that if possible before the petitioners are evicted the Govt. shall try and find out within a reasonable period whether lands fit for allotment can be made available to the petitioners in any other place within the town. If so, lands should be allotted to them at a very reasonable premium.

13. If it is not possible to do it within a reasonable period, we feel that the claims of the petitioners should be kept in abeyance and considered first by the Deputy Commissioner while allotting land for residential and/or trade site in respect of other plots; and, no allotment should be made in favour of any one until the claims of the petitioners are considered. If any allotment is made in respect of land for construction of dwelling house and/or trade site, without considering the cases of the petitioners, the latter shall be at liberty to come up and ask for appropriate relief. However, we are confident that the State Govt. shall provide appropriate relief to the petitioners. We are also confident that the State Govt. and/or the Deputy Commissioner shall consider the case of the petitioners and grant them appropriate relief if not before their eviction, at least immediately after they quit & vacate the land in question.

14. With these observations we dismiss the application. However, we direct that a copy of this judgment should be sent to Respondent 1, Govt. of Manipur and Respondent No. 3, the Deputy Commissioner, Central Manipur, Imphal.

15. Before parting with the records we would observe that there are various shortfalls or gaps in "the Act" and "the Rules". Section 14 (2) of "the Act" has perhaps conferred unguided and uncontrolled power to the Govt. There should be some provision to control and check the power so that it may not be misused. Necessary provisions should be made in "the Act" and "the Rules" to that effect. Again we find that the purposes for which the State Govt. can allot land appears to be somewhat ambiguous. The intention of the legislature should be made more clear by adding few more purposes like shops, establishments and other institutions of public nature. We have specially avoided using the expressions "public purposes" as by the inclusive proviso in Sec. 2 (t) of the Act, the expressions have been too much broadened. However, the expressions ought to remain, because in fact they also serve public purposes. However, taking advantage of Sec. 2 (t) the power of the Deputy Commissioner u/s. 14 (1) cannot be usurped by the State Govt. u/s. 14 (2) of "the Act". We fail to see why allotment of land to public institutions should not be included u/s. 14 (2) of "the Act". Further allotment of land including building to needy persons in town area is surely the obligation of the State Govt. So, such purposes may also be included in Sec. 14 (2).

16. When every citizen has a right to get allotment u/s. 14 (2) of "the Act", before the power is exercised, notifications should be issued to the public about the proposed allotment specifying the area, the premium to be paid and the class

of persons in respect of whom premiums may be reduced. After the applications are received, they should be considered and the applicants and/or their representatives should be heard and thereafter the order of allotment should be made. All these should be incorporated in "the Act" and/or "the Rules". We repeat that one of the main object of "the Act" is to remove inequality. Special provisions should be made for the poor or weaker section of the society which undoubtedly includes the members of the Schedule Tribes, Schedule Castes and those who are socially and economically backward, in respect of socially and economically backward persons the premium should be minimal. Landless persons in occupation of khas lands and evicted there from u/s. 15 of "the Act" should be favorably considered, if they were allowed to occupy the land for few years by the Govt. without taking any punitive action against them. It is the obligation of the Govt. to provide land and roof to the poor who cannot purchase land and construct houses/building. Is it possible for any person to compete with a wealthy person if the lands are sold at the market price? We hope and trust that the State Govt. shall make necessary amendment, alteration to give a new look to "the Act" and "the Rules" so that it can serve the basic objects of the constitutional mandates and the law and take care of those who are lowly placed and to uplift them from utter misery.

17. Let a copy of this Judgment and Order be sent to Respondent No. 1, the State Government and Respondent No. 3, the Deputy Commissioner for doing the needful as indicated in the judgment.

18. With these observations we dismiss the applications. However, we make no order as to costs.