
(1989) 03 BOM CK 0025

In the Bombay High Court

Case No : Writ Petition No's. 674, 675 and 676 of 1989

Nandkumar Girme

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 21-03-1989

Acts Referred:

Constitution of India, 1950 — Article 226, 258(1), 298, 73(1)

Land Acquisition Act, 1894 — Section 4, 4(1), 5A, 6

Maharashtra Regional and Town Planning Act, 1966 — Section 125, 126(2), 128(1)

Citation : (1989) 2 BomCR 641

Hon'ble Judges : P.V. Nirgudkar, J;H.W. Dhabe, J

Bench : Division Bench

Advocate : D.B. Yewatekar, for the Appellant; P.G. Godhamgaonkar, Standing Counsel and N.K. Kakde, Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

H.W. Dhabe, J.—All these writ petitions are connected writ petitions and can conveniently be disposed of by this common judgment. Since the subject matter of all these writ petitions relates to the acquisition of land of the petitioners for approach lights for night landing of the aeroplanes at the Airport at Aurangabad, an urgent hearing was pressed in these writ petitions by the respondents as there was an interim stay precluding them from taking any further proceedings in this matter. We have therefore, heard the learned Counsel for the parties at length at the stage of notice before admission and are, therefore, disposing of these writ petitions finally. We thus issue rule in these writ petitions which are heard forthwith.

2. Briefly, the facts are that originally the Notification u/s 4(1) of the Land Acquisition Act, 1894 (for short, "the Act") was issued by the respondent No. 5 i.e. the Special Land Acquisition Officer on 19-11-1987, published in the Govt. Gazette on 28-1-1988, for acquisition of 4 hectares 95 acres of land from the field survey No. 23/2 of village Murtizapur belonging to the petitioners in these

writ petitions. After the personal notice was received by the petitioners on 1-2-1988, they raised objections u/s 5-A of the Act on 10-2-1988 to the acquisition of their land. However, the land acquisition proceedings pursuant to the aforesaid Notification u/s 4(1) of the Act were thereafter abandoned since the Special Land Acquisition Officer had no power to issue the notification u/s 4(1) of the Act in this matter as the land to be acquired was necessary for the purpose of the Union Government in regard to which it was the Divisional Commissioner who was delegated by the Central Government the power to issue the Notification u/s 4(1) of the Act.

3. The Divisional Commissioner, i.e. the respondent No. 3, then issued the Notification u/s 4(1) of the Act on 26-5-1988 published in the Maharashtra Government Gazette dt. 2-6-1988 in which the land of the petitioners, which was to be acquired for the aforesaid public purpose was 87 Acres from field survey No. 32/2 of village Murtizapur belonging to the petitioners. After the petitioner received personal notice of the intended acquisition as per the Notification dated 29-5-1988, they raised objections u/s 5-A of the Act on 19-7-1988. They then received notice from the Special Land Acquisition Officer that the land acquisition case was fixed for hearing on 9-8-1988. However, according to the petitioners, the Special Land Acquisition Officer was on leave on that date and therefore, the case was adjourned to 23-3-1988 in which date also, according to the petitioners, the Special Land Acquisition Officer, on 9-8-1988 the case adjourned to 26-8-1988. Be that as it may, on 26-6-1988, the petitioners made application before the Special Land Acquisition Officer in which they claimed that they should be allowed hearing by the Divisional Commissioner. It is the case of the petitioners that no hearing was granted to them in regard to their objections either by the Special Land Acquisition Officer or by the Divisional Commissioner which fact is disputed by the above officers.

4. The Special Land Acquisition Officer then sent his report to the Divisional Commissioner after the receipt of the Notification u/s 6 of the Act was issued by the Divisional Commissioner on 8-9-1988 making a declaration that the land in question of the petitioners was required for a public purpose as shown in the Notification u/s 4(1) of the Act and the same should be acquired by taking further proceedings under the Act. It may be seen that the notice u/s 9 is thereafter received by the petitioners and the proceedings for determination of compensation have also commenced. When, however, their possession was threatened, the petitioners have filed the instant writ petitions on or about 27-2-1989 challenging the Notifications issued by the Divisional Commissioner under sections 4(1) and 6 of the Act.

5. The petitioners have challenged the Notifications u/s 4(1) and 6 of the Act on various grounds. The learned Counsel appearing for the State as well as for the acquiring body have raised a preliminary objection that the instant writ petitions should be dismissed on the ground of inordinate delay. In our view, there is no merit in the above preliminary objection. Since the petitioners continued to be in

possession, they waited for filing the petitions till their possession was threatened. It is well settled that there is no time limit prescribed for preferring a writ petition under Article 226 of the Constitution of India and the question of delay has to be considered in the light of the facts and circumstances in each case. It cannot be said that there is any inordinate delay as such, in moving this Court when the petitioners have moved this Court after a period of about five months from the date of issuance of the Notification u/s 6 of the Act. It cannot also be said that the petitioners have waived their right either by reason of delay which is alleged by the contesting respondents or because of the fact that they have filed a claim for compensation u/s 9 of the Act. The effect cannot, therefore, be given to the above preliminary objection raised on behalf of the contesting respondents.

6. Turning now to the contentions raised on merits, the first contention which needs consideration in the instant writ petitions is whether it was competent for the Central Government to authorise the officers of the State Government for the purpose of exercise of its powers under sections 4(1) and 6 of the Act. In this regard, the learned Counsel for the petitioners has placed reliance upon the provisions of Article 73(1) and Article 258(1) of the Constitution of India to show that no such delegation of executive power of the Union Government is permissible hereunder. In appreciating the above submission made on behalf of the petitioners it may be seen that section 3(ee) of the Act defines the expression "appropriate Government" to mean, in relation to the acquisition of land for the purposes of the Union, the Central Government, and in relation to the acquisition of land for any other purposes, the State Government. In sections 4(1) and 6 of the Act the "appropriate Government" would thus mean that if the land to be acquired is for the public purpose of the Union Government, then the appropriate Government for exercising the power there under would be the Union Government and for all other public purposes the appropriate Government would be the State Government there under. It is not in dispute that the land in question of the petitioners is being acquired for the purpose of approach lights for night landing at the airport at Aurangabad, which is the purpose of the Union Government. It is, therefore, not in dispute that the appropriate Government in this regard would be the Union Government.

7. The learned Counsel for the respondents have however, urged before us that the powers of the Union Government in relation to the acquisition of land or the Union purposes under sections 4(1) and 6 are delegated to the Divisional Commissioner by the appropriate notifications issued in that regard by the Central Government. The learned Counsel for the petitioners has, however, challenged the validity of the said Notifications on the ground that they are not authorised by virtue of the provisions of Article 73(1) and Article 258(1) of the Constitution. He has relied upon the decision of the Madras High Court in *Ghousia Begum Vs. The Union Territory of Pondicherry*, to show to show that the President has no power to delegate any of the Executive functions of the Union Government to the State Government authorities or the authorities in the Union

Territory. No such proposition is laid down in the above case. Perusal of the above decision shows that the President was acting as Head of the Union Territory under Article 239(1) of the Constitution so far as delegation of power in the said case was concerned and not as Head of the Central Government. The above case is thus clearly distinguishable.

8. The contention raised on behalf of the petitioners on the basis of Article 73(1), Article 258(1) and Article 298 of the Constitution is, however, no more *res integra* and is fully answered in the decision of the Supreme Court in the case of *Jayantilal Amrit Lal Shodhan Vs. F.N. Rana and Others*, . It is held by the majority view in the said case that except the functions or the powers which are vested in the president by the constitution and which are incapable of being delegated or entrusted to any authority or body under Article 258(1), the President can delegate under Article 258(1) of the Constitution the functions of the Union Government. After pointing out the distinction between the executive, legislative and judicial functions, the majority view held that the Notification issued by the President under Article 258(1) of the Constitution had the force of law within the meaning of section 87 read with section 2(d) of the Bombay Re-organisation Act. It held that by virtue of Article 73(1)(a), the executive power of the Union extends to the acquisition of property for the Union because the acquisition of property is a subject-matter covered by Item 42 of List III, i.e. the concurrent list in the Seventh Schedule, upon which the Parliament has power to make laws. As regards the requirement of the proviso to Article 73(1) about there being express provision in the Constitution or in any law made by the Parliament for the executive power of the Union to extend in any State upon matters with respect to which the State has also power to make laws, it held that the said requirement is satisfied by virtue of the provisions of Article 298 of the Constitution under which the power of the Union extends to carrying on of any trade or business and to the acquisition, holding and disposal of property and the making of contracts for any purpose. It then interpreted the expression "acquisition, holding and disposal of property" used in Article 298 to include compulsory acquisition of property also.

9. We may venture to state that the delegation of functions of the Union in relation to matters under the concurrent list can be rested solely upon Article 258(1) itself without taking recourse to Article 298 because in view of the non-obstinate clause used therein it can operate despite the proviso to Article 73(1) of the Constitution which requires an express provision in the Constitution or in the law by the Parliament for the executive power of the Union to extend in the State. It may be seen that when the functions of the Union in respect of matters over which it has power to legislate can be entrusted to the State Government or its officers with the consent of the State Government under Article 258(1) and can be entrusted to it or its officers without its consent by a law enacted by the Parliament as provided in Article 258(2) there is no reason why the proviso to Article 73(1) should not be held to be dispensed with by the non-obstante clause in Article 258(1).

10. It is next pertinent to see that although the minority view in the Jayantilal's case, cited supra, disagreed with the majority view on the question whether the Notification issued under Article 258(1) had the force of law within the meaning of section 87 read with section 2(d) of the Bombay Re-organisation Act, it is clear from reading the said minority view that the Notification issued under Article 258(1) possesses the authority of law. It is further clear from the minority decision that it took the view that the consent of the State of Gujarat which was formed after 1st May 1960 was lacking to the Notification under Article 258(1) which was issued on July 24, 1959, i.e. prior to the formation of the State of Gujarat. It is thus clear that the contention raised on behalf of the petitioners is squarely covered by the above decision. Moreover, recently, the Supreme Court has also upheld similar delegation made in respect of the Union Territory under Article 239(1) of the Constitution in the case of Om Prakash Vs. Union of India (UOI) and Others, . Similar is also the view of the Delhi High Court in the case of Kundanlal v. Union of India & others AIR 1988 Delhi 63. The above contention raised on behalf of the petitioners, therefore, deserves to be rejected.

11. It is, however, urged that since the acquisition of land is for the purpose of approach lights for night landing at the airport, which subject matter is covered by Entry No. 29 in the Union List, i.e. the exclusive list of the Union relating to airways, air-craft and air navigation, provision for aerodromes, regulation and organisation of air traffic and of aerodromes, such power could not have been delegated to the officers under Article 73(1) and Article 258(1) of the Constitution. The above contention in fact runs counter to the language used in Article 73(1)(a) and Article 258(1) because it is precisely in respect of the matters in the Union List that the delegation of the functions of the Union Government is provided in Article 258(1) of the Constitution . As regards the matters in the Concurrent List in regard to which the State has also power to legislate unless there is an express provision in the Constitution such as Article 298 relied upon in the decision of the Supreme Court in Jayantilal's case, cited supra, or in the law made by the Parliament the executive functions of the Union Government do not extend in the State in view of the proviso to Article 73(1) of the Constitution.

11-A Moreover, the subject matter of acquisition of land is comprehended not within Entry No. 29 of the Union List but is comprehended within Entry No. 42 of the Concurrent List which relates expressly to the subject matter of acquisition and requisitioning of property. The Land Acquisition Act is thus referable to the aforesaid Entry No. 42 in the Concurrent List. In our view, the only relevance of the Entry No. 29 of the Union List in the instant case is that since the public purpose of acquisition of land in the instant case, viz., approach light for night landing at the airport falls in the said entry, it is clear that the acquisition of land in the instant case is for the purpose of the Union Government which is, therefore, an appropriate Government for taking action for acquisition of land under sections 4(1) and 6 of the Act. The above contention raised on behalf of the petitioners is thus devoid of any merit.

12. The next contention urged on behalf of the petitioners is that under the Maharashtra Regional and Town Planning Act, 1966, (for short, "the Town Planning Act"), such acquisition by the Divisional Commissioner under sections 4 and 6 of the Act is prohibited. It is urged that the land in question is within the limits of the Municipal Corporation, Aurangabad and is covered by the Development Plan of the city prepared under the said Act. The submission thus is that unless there is concurrence of the planning authority and the land in question is de-reserved, in this regard is placed upon section 125 of the Town Planning Act. Perusal of section 125 shows that any land which is reserved under the Development Plan for a particular purpose is deemed to be land needed for a public purpose within the meaning of the Act.

13. It is pertinent to see at this stage that the Development Plan is prepared in accordance with the provisions of the Town Planning Act after allowing persons to raise their objections to the Draft Plan and after all the formalities prescribed upon the aforesaid Act are completed. The purpose of section 125 thus is to dispense with the necessity of issuing notification u/s 4(1) of the Act because that stage is already completed when the final Development Plan is prepared under the Town Planning Act. It is for this reason that it is necessary to issue a Notification only u/s 6 of the Act when the land reserved in the Development Plan is to be acquired by the planning authority as provided in section 126(2) of the Town Planning Act.

14. However, the material provision for consideration of the contention raised on behalf of the petitioners is of section 128(1) of the Town Planning Act in which it is made clear that the fact that the land is included and/or reserved in the Development Plan will not affect the power of the State Government to acquire the said land for any other public purpose for which it is necessary. The said sub-section also does not provide that any consent of the planning authority as is urged on behalf of the petitioners is necessary for acquisition of land for other public purposes under the Act. It is then provided in section 128(2) that if some damage is sustained by reason of acquisition of the land included in the Development Plan for some other public purpose, the planning authority can lay claim in that regard under the Act for which purpose it is treated as a "person interested in the land acquired" within the meaning of the Act. Be that as it may, what is pertinent to be seen is that as per section 128(3) once the land acquired for some other public purpose under Act vests in the State Government the Development Plan is deemed to be varied or modified by reason of acquisition of said land.

15. It is thus clear from the scheme of section 128 of the Town Planning Act that the power of the State Government to acquire the land under the Act is not affected by the provision made for the development of the region or the town under the Development Plan prepared under the Town Planning Act. In fact the whole scheme and the purpose and object of the aforesaid Act does not warrant such a conclusion that it bars acquisition of land for any public purpose other

than the purpose for which it is reserved in the Development Plan. Moreover, if the interpretation as is canvassed on behalf of the petitioners upon the provisions of the Town Planning Act is accepted it would lead to disastrous results because it would not then be possible for the State or the Union to acquire the land reserved under the Development Plan for their pressing public purposes by taking recourse to the provisions of the Act. The above contention raised on behalf of the petitioners is, therefore, rejected.

16. We now turn to the remaining two contentions raised on behalf of the petitioners which, according to us, deserve to be accepted. It is urged that there is no compliance with the mandatory provisions of section 4(1) of the Act by the competent authority. The submission is that apart from the publication in the Official Gazette, two other requirements of section 4(1) are that the notification under the said section should be published in two daily newspapers having circulation in the locality in question of which at least one should be in the regional language, and that the Collector should cause public notice of the substance of such notification to be given at convenient places in the locality in question. According to the learned Counsel for the petitioners, the notification u/s 4(1) in the instant case was published only in one paper, viz. "Marathwada" and not in two daily newspapers as required by section 4(1). It is also urged that no publicity was given to the substance of the said notification in the convenient places in the locality from which the land of the petitioners was sought to be acquired.

17. As regards the above submissions, the learned Counsel appearing for the respondents 2, 3 and 5 does not dispute the above facts. He has, however, urged that there was personal notice served upon the petitioners and, therefore, since the petitioners are not prejudiced no effect should be given to the above submissions made on their behalf. It is also urged that no such objection was raised by the petitioners before the Special Land Acquisition Officer u/s 5-A of the Act.

18. In considering the rival submissions, it may be seen that the requirement of publishing the substance of the Notification at convenient places in the locality is held a mandatory requirement by the Supreme Court in the case of Collector (District Magistrate) Allahabad and Another Vs. Raja Ram Jaiswal, . It may be, however, be seen that the requirement that the Notification should be published in two daily news-papers having wide circulation in the locality in question of which at least one should be in regional language, was not before the Supreme Court in the above case as the said case dealt with section 4(1) as applicable to the State of U.P. prior to the amendment of the said sub-section by Act No. 68 of 1984 enacted by Parliament. It is, therefore, necessary to consider whether the provision of publication of the Notification in two daily newspapers inserted by Act No. 68 of 1984 is also mandatory.

18-A. It is pertinent to see that the provision of publication of the Notification in two daily news papers is clubbed with its publication in the Official Gazette which

provision is thus obviously mandatory. Moreover, another clause inserted by Act No. 68 of 1984 in section 4(1) viz., "the last of the dates of such publication and the giving of such public notice, being hereafter referred to as the date of the publication of the Notification" also indicates that the provision of the publication of the Notification in two daily news-papers is mandatory because it is the last of the dates whether of publication in the Official Gazette and in the two daily news-papers or of giving of public notice of the substance of the Notification at convenient places in the locality which is the date of the publication of the Notification for the purposes of the Act. In particular, the said date of publication of the Notification is important from the point of view of determination of compensation u/s 23(1) of the Act. It is as on that date that the market value of the land in question has to be assessed . The provisions of publication of the notification in the two daily news-papers and of giving public notice of the substance of the said Notification at convenient places in the locality are thus clearly mandatory. The said view is also re-inforced by the use of the expression "thereupon" used in sub-section (2) of section 4 of the Act which means after such publication the action under sub-section (2) of section 4 of the Act can be taken by the officers concerned.

19. If the provisions relating to the publication of the Notification in the news papers and the substance of the Notification at the convenient places in the locality are mandatory provisions, non-compliance with the said provisions would vitiate all the actions taken by the competent authority pursuant to the publication of the Notification u/s 4(1) of the Act in the Official Gazette. It is well settled that the question of prejudice is not, relevant when the provision is mandatory. It may, however, be seen that one of the objects of giving publicity in the news-papers in the locality is that all the persons who are interested in the acquisition of the land in question who may be other than the petitioners also can raise objections to the Notification u/s 4(1). The fact, therefore, that the personal notices are issued to the petitioners would not mean that the above non-compliance with section 4(1) can be ignored. For the same reason, even if no such objection is raised by the petitioners before the Special Land Acquisition Officer u/s 5-A of the Act. It will not preclude them from raising the same in the instant writ petitioners. It may be seen in this regard that similar contention that since the objections u/s 5-A of the Act were raised by the persons interested in the acquisition, the requirement of not giving; public notice of the substance of the Notification in the locality should not be held to be fatal was rejected in the decision in Raja Ram Jaiswal's case, cited (supra).

20. It has, therefore, to be held that all the actions of the competent authorities taken pursuant to and after the publication of the Notification u/s 4(1) of the Act in the Official Gazette are thus vitiated and are liable to be struck down for non-compliance with the mandatory requirements of the publication of the Notification in the two daily news papers and of giving public notice of the substance of the Notification at convenient places in the locality in question as provided u/s 4(1) of the Act. However, in our view, it is not necessary to quash

the Notification issued u/s 4(1) of the Act and its publication in the Official Gazette because even now there can be compliance with the aforesaid two requirements by the competent authorities and also because no prejudice would be caused to the petitioners by doing so as for determining the compensation payable to them the material date u/s 23 of the Act is not the date of publication of the Notification in the Official Gazette but it is the last of the dates of such publication whether in the Official Gazette or in the newspapers and the giving of the such public notice as provided in section 4(1) by virtue of the Amending Act No. 68 of 1984 referred to above.

21. The last question urged on behalf of the petitioners and which needs consideration is that no hearing was given by the Special Land Acquisition Officer in regard to the objections raised by the petitioner u/s 5-A of the Act. In this regard it is pertinent to see that in pursuance to the first Notification issued by the Special Land Acquisition Officer, the petitioners had raised objections u/s 5-A of the Act on 10-2-1988. However, the said proceedings were dropped as the Special Land Acquisition Officer had no jurisdiction to issue the Notification u/s 4(1) of the Act. After the fresh Notification was issued on 26-5-1988 by the Divisional Commissioner u/s 4(1) of the Act, they again raised the objections to the acquisition on 19-7-1988. In regard to these objections raised on 19-7-1988 it is the case of petitioners that no hearing was given to them by the Special Land Acquisition Officer. In this regard the learned Counsel for the respondents has drawn our attention to the report of the Special Land Acquisition Officer, and in particular, column 6 thereof. Relying upon the said column 6 in the report of the Special Land Acquisition Officer, it is sought to be urged that the petitioners had given their written arguments on 26-6-1988 through the application made by them on that date which were considered by the Special Land Acquisition Officer.

22. In appreciating the above submissions, it is first necessary to observe that the Special Land Acquisition Officer has not maintained any order sheets at all, although the proceedings u/s 5-A require him to give an hearing before any report is made by him to Divisional Commissioner u/s 6 of the Act. It must be borne in mind that the proceedings u/s 5-A of the Act are in the nature of quasi judicial proceedings and had the order-sheets been maintained, they would have easily shown whether hearing was given by the Special Land Acquisition Officer to the petitioners and if so, on what date, before he sent his report to the Divisional Commissioner. It would thus have avoided unnecessary controversy raised in this regard in the instant writ petitions. The Special Land Acquisition Officer should hereafter be well advised to maintain the order sheets of the hearing he accords u/s 5-A of the Act, so that it can easily be found out without any controversy as to what has transpired on each date of hearing before him.

23. Be that as it may, as regards the reliance of the learned Counsel for the respondents, on the application made by the petitioners on 26-8-1988 to show that it contained written arguments, it may be seen from the said application

that the prayer in that application is that the Divisional Commissioner should give hearing to the petitioners. It cannot therefore, be said that any written arguments are submitted by the petitioners in the said application to the Special Land Acquisition Officer. Perusal of the said application dated 26-8-1988 shows that the petitioners have given additional reasons and /or objections in the said application dated 26-8-1988 and has requested that on their both letters, i.e. letter of objections dated 19-7-1988 and the present letter dated 26-8-1988, they should get an opportunity of direct discussion with the Divisional Commissioner. There is thus nothing in the said application dated 26-8-1988 to show that the petitioners have given up their right of being heard orally by the Special Land Acquisition Officer in regard to their objections.

24. Turning now to column 6 of the report of the Special Land Acquisition Officer, it clearly shows non-application of his mind. Although it is not in dispute that the petitioners have filed objections originally on 10-2-1988 pursuant to the previous Notification u/s 4(1) of the Act and thereafter on 19-7-1988 pursuant to the present Notification issued thereunder, the Special Land Acquisition Officer is referring to the date of the previous objections as 23-3-1988. Moreover, although it is not in dispute that the petitioners have filed objections twice, the Special Land Acquisition Officer has stated that they had filed objections only once on 23-3-1988 pursuant to the previous Notification and that they had not filed any fresh objections. It may then be seen that although it is not disputed in the present writ petitions that the objections are filed by the petitioners on 19-7-1988 pursuant to the fresh notification u/s 4(1) of the Act and has also given the application dated 26-8-1988, in his letter to the Divisional Commissioner dated 26-8-1988, the Special Land Acquisition Officer had still stated that no objection of the owner has been received by him regarding the acquisition. Further, although it is not disputed by the learned Counsel appearing on his behalf that no publicity was given to the substance of the Notification u/s 4(1) of the Act, in the convenient places in the locality in question, in the letter to the Commissioner dated 29-8-1988 he has said that such publicity was given to the notices u/s 4(1) of the Act.

25. It is unfortunate that the approach of the Special Land Acquisition Officer is very casual in these acquisition matters which affect the valuable rights of the citizens. Needless to emphasize that he should have been more careful in making the report to the Divisional Commissioner, in regard to the question of receipt of the objections u/s 5-A of the Act, in regard to the question of giving hearing upon them to the petitioners, and, after applying his mind to the said objections and after considering them, in ultimately giving a proper report to the Divisional Commissioner. He should have realised that section 5-A of the Act which is mandatory is not merely an empty formality. The contention raised on behalf of the petitioners in this regard that no hearing was given to them u/s 5-A of the Act by the Special Land Acquisition Officer in regard to their objections is thus well-founded and, therefore, deserves to be accepted.

26. In the result, the instant petitions are allowed. The impugned Notification issued u/s 6 of the Act is quashed and set aside. Although the Notification u/s 4(1) of the Act is not quashed the competent authorities are directed to comply with the requirements of section 4(1) of the Act of publishing the Notification u/s 4(1) of the Act in the newspapers in the manner prescribed therein and of giving public notice of the substance of the said Notification u/s 4(1) of the Act in the convenient places in the locality in question. The special Land Acquisition Officer is directed to give hearing to the petitioners in regard to their objections to the acquisition filed u/s 5-A of the Act before giving his report in that regard to the Divisional Commissioner about the issuance of the Notification u/s 6 of the Act. Rule made absolute in the above terms. No costs.