

(2010) 12 KAR CK 0038

In the Karnataka High Court

Case No : Writ Petition No. 23084 of 2005 A/W MISC.W. 571 of 2010, WP No. 3252 of 2006 and WP No. 10933 of 2007

Prudential Housing and Infrastructure Development Ltd. and
Mr. Ravi Purvankara

APPELLANT

Vs

State of Karnataka and Others
 Papaiah, B.P. Papanna
Reddy, A.R. Ashwathanarayana Reddy rep. by his P.A. Holder
Sri Nirmal Bafna, Managing Director Ansu Builder Pvt. Ltd.
and Mangala Enterprises Vs State of Karnataka and Others

 B.P. Venkataswamy Reddy Vs State of Karnataka, The
Karnataka Industrial Area Development Board and Prudential
Housing and Infrastructure Development Ltd.

RESPONDENT

Date of Decision : 13-12-2010

Acts Referred:

Karnataka Industrial Area Development Act, 1966 — Section 28 (1), 28 (4)
Karnataka Industries (Facilitation) Act, 2002 — Section 12, 2 (1)

Citation : (2010) 12 KAR CK 0038

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : Vivek Holla, for Holla and Hollain WP No. 23084 of 2005 assisted with MISC.W. 571 of 2010, Joshua H. Samuel, for Cariappa and Co. Writ Petition No. 30309 of 2010, M V. Vedachala, in WP No. 3252 of 2006 and K. Srinivasa Gowda, in WP No. 10933 of 2007, for the Appellant; Ashok Haranahalli, A.G., Venkatesh Dodderi, AGA for R1, Basavaraj V. Sabarad, for R2, C.N. Raghunath, for R3, L.S. Venkatakrishna, for R3 (A-D), K. Srinivasa Gowda, for R4 and M.V. Vedachala, for R17 in WP No. 23084 of 2005 A/W MISC.W. 571 of 2010, Venkatesh Dodderi, AGA for R1, P. V. Chandrashekar, for R2, Shevagoor and Kamath Law Associates, for R5 in WP No. 30309 of 2010, Venkatesh Dodderi, AGA for R1 and R2, Basavaraj V. Sabarad, for R3 and R4, Holla and Holla for R5 in WP No. 3252 of 2006, Basavaraj V. Sabarad, for R3 and R4 and Holla and Holla, for R5, WP No. 3252 of 2006 and Venkatesh Dodderi, AGA for R1, Basavaraj V. Sabarad, for R2 and Holla and Holla for R3 in WP No. 10933 of 2007, for the Respondent

Judgement

D.V. Shylendra Kumar, J.

RE: WP No 23084 OF 2005:

1. This writ petition by two persons, first Petitioner is a limited company and the second Petitioner claims to be a shareholder in the first petition-company.

2. The averments in para-1 of the writ petition give a better description of the Petitioners and read as under:

1. The first Petitioner is a subsidiary of Puravankara Projects Ltd., which has developed over 5 million sq.ft. of built up space and have necessary infrastructure and expertise for setting up of I.T. infrastructure development projects. There is a great demand for I.T. infrastructure development projects from Indian and foreign companies who want to set up software / hardware manufacturing units, business processing outsource companies, IT enabled service companies etc., in Bangalore which is the Silicon Valley of India. In order to enable them to set up their base in Bangalore, necessary infrastructures like buildings with modern support systems, technology parks and townships etc., are require. The second Petitioner is the share holder of the first Petitioner company.

3. It is claimed that the Petitioners have necessary expertise and entrepreneurial ability and wherewithal to set up a technological park and township for establishment of trade centre and with this equipment, had filed an application on 4-7-2001 before the Karnataka Udyog Mitra, which is described as the nodal agency, which operates at the state level and district industries centres at the districts level, and giving this status in terms of the provisions of Section 12 of the Karnataka Industries (Facilitation) Act, 2002 [for short, the facilitation Act].

4. It is also the case of the Petitioners that the Petitioners had identified about 50 acres of land comprised in Sy Nos 13, 14, 15, 29, 30, 32, 33 and 34 of Iblur village, Begur hobli, Bangalore south taluk for establishment of a trade centre and with the object of acquiring these lands, had availed the services of Udyoga Mitra by making the application as referred to above.

5. It is also the version of the Petitioners that the application was processed by high level committee headed by not less than the chief minister of the state at its meeting held on 23-7-2003, wherein, it appears, several other projects like the one proposed to be executed by the Petitioners, were also examined by the high level committee and the Petitioners have appended to the writ petition a copy of the proceedings of the high level committee that took place on 23-7-2003 under the chairmanship of the then chief minister Sri S M Krishna with the following persons as members, who are all ministers and senior bureaucrats:

1) S M Krishna Chairman

Hon"ble Chief Minister

Government o/Karnataka

2) R V. Deshpande Vice Chairman

Hon"ble Minister for
Large & Medium Industries

3) V. S Koujalgi Member

Hon"ble Minister for
Agriculture

4) M Shivanna Member

Hon"ble Minister for
Horticulture

5) T John Member

Hon"ble Minister of State
for Infrastructure
Development

6) D B Inamdar Member

Hon"ble Minister of State
for Tourism and
Information Technology

7) Subir Hari Singh Member

Principal Secretary to
Government, Commerce &
Industries Dept

8) A K Agarwal Member

Principal Secretary to
Government, Agriculture
and Horticulture
Department

9) N Gokulram Member

Principal Secretary to
Government
Forest, Ecology &
Environment Dept.

10) T Y Nayaz Ahmed Member
Principal Secretary to
Government

Labour Department

11) S Krishna Kumar Member
Principal Secretary to
Government,

Infrastructure Development
Department

12) P Kotilingangoud Member
Chairman & Managing

Director, Karnataka State
Industrial Investment and
Development Corporation

13) Vivek Kulkarni Member
Secretary

Information Technology
Department

14) G Gurucharan Member
Secretary to Government

Represented Principal
Secretary, Finance
Department

15) K N Shrivastava Member
Managing Director
KPTCL

16) S J Channabasappa Member
Secretary to Government
Represented Principal
Secretary, Water Resources

Department

17) Ashok Kumar C Manoli Member

Commissioner of

Commercial Taxes

18) C S Kedar Member

Secretary to Government

Kannada & Culture

Department

19) Lukose Vallatharaj Member

Chief Executive Officer &

Executive Member, KIADB

20) M A Basith Member

Senior Director,

Represented Secretary to

Government Planning

Department

21) S Shankarnarayana Member

Deputy Secretary

represented Principal

Secretary, Revenue

Department

6. In so far as the application of the Petitioners is concerned, it was considered by this high level committee at item No 1 of additional subjects. The outcome of the proceedings in so far as the Petitioners are concerned, is as under:

ADDITIONAL SUBJECTS:

1) Proposal of M/s Prudential Housing & Infrastructure development Ltd to establish IT infrastructure & residential quarters in Bangalore.

Mr. Girish Puravankara, Director presented the project in detail as under:

Name & Address : M/s. Prudential Housing &

of the Company Infrastructure development

Ltd. No. 130/1. Ulsoor

Road. Bangalore.

Name of the : Mr. Ravi Puravankara

Promoter Mr. Nani R Choksey

Mr. Girish Puravankara

Background of the promoter:

The promoters have developed land mark buildings like Purva Park, Purva heights, Purva Graces and etc.

Background of the company:

M/s. Prudential Housing & Infrastructure Development Ltd., is one of the group companies of M/s. Puravankara Projects Ltd. who are well known Developers. The total income of the group for the year ending 31.3.2001 is Rs. 1128 lakhs.

Details of proposed project:

The company has proposed to establish IT infrastructure and residential quarters at survey No. 13,14,15,29,30,32,33 and 34 of Iblur village, Begur Hobli, Bangalore south taluk. The total built up area proposed is 4 million sq.ft. Out of which 2.5 million sq.ft. is for IT infrastructure, leisure and related sports activities. 1.5 million sq.ft. is for residential quarters. Employment is proposed to be provided for 150 persons. The details of the project cost and means of finance are as follows:

Cost of the Project Means of finance

(Rs. in crores) (Rs. in crores)

(a) Land & 367.50 (a) Promoter's 8.00

Bldg. contribution

(b) Plant & 12.00 (b) Term loans Mach.

(c) Others _____ (c) Others 371.50

379.50 379.50

The company has sought the following infrastructure facilities and incentives and concessions:

Infrastructure facilities:

Land:KIADB to acquire 50 acres of land in the sy. Nos. 13,14,15,29,30,32,33 and 34 of Iblur village, Begur hobli Bangalore south taluk as a single unit complex.

Water:20,00,000 Ltrs of water per day from BWSSB Power: 30,000 KVA from BESCO and within 4-6 years in phases.

Incentives and concessions:

As per Millennium IT policy.

After detailed discussions, the Committee approved the following infrastructural assistance, incentives and concessions to the project.

Infrastructure facilities:

Land: KIADB to acquire and allot 50 acres of land mentioned above as identified by the company of Iblur village, Begur Hobli, Bangalore South tq. as a single unit complex if there are no impediments to acquisition of land.

(a) The company will ensure that development undertaken by the project consonance with the CDP.

(b) Permission for relocation of roads in the CDP. if required, will be obtained by company from the appropriate authorities.

Water: 20,00,000 Ltrs of water per day to be supplied by BWSSB.

The company was advised to adopt the elements of the National Water Policy including water harvesting, recharging of ground water, complete recycling of water etc. The company was also advised to indicate their net requirement of water after taking into account the quantum of recycled water. The company should also clearly specify their requirements of treated water and fresh water to BWSSB.

Power: BESCOM to supply 30,000 KVA and within 4-6 years in 2 phases.

Others: The company will have to handover the roads for maintenances to local authorities if they are willing to take over and parks to BDA, if they are agree to maintain.

Incentives and concessions:

Incentives and concessions as per Millennium IT policy for IT related activity only.

POLLUTION CONTROL:

The company was advised to approach Karnataka State Pollution Control Board and Department of Ecology and Environment to obtain clearance as per the provisions of the relevant Acts and Rules at the earliest.

PROVIDING LOCAL EMPLOYMENT:

The promoters were informed to provide employment to local persons as per Policy of the Government.

7. It is also the version of the Petitioners that the Karnataka Industrial Areas Development Board, through which the Petitioners had sought for acquiring the lands proposed to be used to execute their project, was activated for such purpose and had initially submitted a proposal for issue of notifications in terms of the provisions of Sections 3 (1), 1(3) and 28 (1) of the Karnataka Industrial

Areas Development Act, 1966 [for short, the Act]. These statutory provisions of the Act read as under:

1. Short title, extent and commencement

XXX

(3) This Act except Chapter VII shall come into force at once: Chapter VII shall come into force in such area and from such date as the State Government may, from time to time, by notification, specify in this behalf.

3. Declaration of Industrial areas-

(1) The State Government may, by notification, declare any area in the State to be an industrial area for the purposes of this Act.

28. Acquisition of land-

(1) If at any time, in the opinion of the State Government, any land is required for the purpose of development by the Board, or for any other purpose in furtherance of the objects of this Act, the State Government may by notification, give notice of its intention to acquire such land.

8. It is also the plea of the Petitioner that the board had called upon the Petitioners to deposit a sum of Rs. 1.979 crore as part payment towards tentative cost of the land to be acquired for setting up the project of the Petitioners and the Petitioners, in fact, did deposit this amount with the board and a copy of the receipt issued by the board is appended to the writ petition as Annexure-D. It is also the further plea of the Petitioners that another organization by name M/s BPR IT Infrastructure Solutions, perhaps, a rival or competitor to the Petitioners, had questioned the legality of the proceedings of the high level committee by filing a writ petition before this Court in WP No 48245 of 2003 and this petition, in fact, is pending before this Court and even today is on the board of this Court figuring at SI No 79 in the day's cause list. It is also further averred that on the advice and guidance of the state government, and with the project of the Petitioners being cleared by the high level committee and Karnataka Udyoga mitra, the Petitioners were asked to obtain the consent of the Karnataka Pollution Control Board for their proposed project. Thereafter, it is claimed, the developments such as issue of statutory notifications under Sections 3 (1) and 28 (1) of the Act took place on 14-1-2004 indicating the lands proposed for acquisition and the copies of these notifications are produced at Annexure-G and H respectively to the writ petition.

9. It is also pleaded by the Petitioners that they have received a communication dated 6-4-2004 from the board apprising the Petitioners that the provisional cost of land proposed for acquisition in terms of the schedule to the preliminary notification, issued u/s 28 (1) of the Act, works out to Rs. 13,47,42,612/- and the Petitioners were called upon to deposit this sum Rs. 13,47,42,612/-. It appears, the Petitioners though grumbled the cost for acquisition, nevertheless,

remitted the entire amount of Rs. 13,47,42,612/- by means of cheque along with its letter dated 13-4-2004. It is also the version of Petitioners that the cheque was encashed and the board realized the amount of Rs. 13.47,42,612/-.

10. It is the grievance of the Petitioners that the Respondents thereafter had developed cold feet; that the board became lukewarm to the needs and requirements of the Petitioners; that the board went on giving lame excuses and the board, for a good measure cited the pendency of WP No 48345 of 2003 filed by M/s BPR IT Infrastructure Solutions, pending before this Court, on the pretext of the court having directed the acquiring authority not to proceed with the matter further, refunded the amount of Rs. 13,47,42,612/- deposited by the Petitioners, along with the board's letter dated 17-4-2004 [copy at Annexure-M to the writ petition].

11. In this background, with the Respondent-state government and the board not evincing any interest to take the acquisition proceedings to its logical conclusion, notwithstanding the reminders by the Petitioners and one such letter being on 25-4-2005 addressed to the board, in particular pointing out that there was no interim order or stay order that had been granted by this Court in the pending WP No 48345 of 2003 and even after pointing out that the state government after having accepted the deposit towards the cost of acquisition of the proposed land in terms of Section 2 (1) of the Act, were bound to comply with the acquisition proceedings and therefore the writ petition for working out the rights and remedies of the Petitioners.

12. It is incidentally mentioned that in between some of the land owners had filed writ petitions before this Court in WP Nos 5914-15 of 2004, challenging the legality of the preliminary notification, but the said writ petitions came to be dismissed as per order dated 24-11-2004 [copy at Annexure-O to the writ petition].

13. It is in this background of the continued inaction on the part of the state government for not proceeding to issue a declaration in terms of Section 28 (4) of the Act, the present writ petition with the following relief:

i) issue a writ of mandamus or any other writ, order or direction directing the second Respondent herein to issue final notification under Section 28 (4) of the KIADB Act 1961 for acquisition of the lands bearing Sy. No. 13, 14, 15, 29, 30, 32, 33 and 34, situated in Ibbalur Village, Begur Hobli, Bangalore South Taluk, measuring about 50 acres (schedule lands):

ii) direct the Respondents to pay the costs of this petition and grant such other and further reliefs as are just.

14. Petitioners have not only placed reliance on the principles of promissory estoppel for seeking relief as per the prayer, but also have relied upon the provisions of the Act, contending that not issuing a declaration u/s 28 (4) of the Act, after issue of preliminary notification u/s 28 (1) of the Act, after necessary

formalities, which is a dereliction of duty, the provisions of facilitation Act are also relied upon, indicating that the state high level committee has a statutory recognition under this Act and therefore contending that when once the committee has cleared the project of the Petitioners, it is the duty of every agency and authority under the state government to act in aid of the proceedings and resolutions of the high level committee and in this regard the provisions of Section 5 of facilitation Act are brought to by my notice. It is in this background, the Petitioners have filed this petition seeking for the relief as quoted above.

15. Respondents 3 to 16 claiming to be persons whose lands figured in the preliminary notification have also joined the proceedings by making an application for such purpose and majority of them have filed objections opposing the writ petition. One Papaiah has filed an application in Misc W No 671 of 2010, claiming interest in one of the lands notified for acquisition in terms of the preliminary notification, seeking for impleadment in this petition. Upon hearing the learned Counsel for the proposed Respondent, this application is allowed and the applicant is permitted to come on record as Respondent No 17 and learned Counsel for the Petitioners is directed to amend the cause title accordingly.

16. While second Respondent-board has filed its statement of objections even as early as on 25-7-2007, the state government had not responded, nevertheless, the petition is being heard from time to time on and after 26-11-2010 and the following orders having come to be passed on different dates:

ORDER DT. 26.11.2010

This writ petition by a person claiming to be the beneficiary of certain acquisition proceedings initiated by the State Government under the provisions of the Karnataka Industrial Areas Development Act, 1966 [for short "the Act"] is for issuing directions to compel the State Government to make a declaration u/s 28(1) of the Act in respect of lands figuring in preliminary notification u/s 28(1) of the Act to compel the State Government to proceed further in the acquisition matter etc.,.

While the Karnataka Industrial Areas Development Board figuring as second Respondent, has filed statement of objections, pointing out that on its part, it has already forwarded the proposal to the State Government to issue a notification u/s 28(4) of the Act, the State Government has remained blissfully silent for the past five years, ever since they were put on notice.

Inaction appears to be writ large on the face of the record on the part of the State Government, but that by itself will not result in a writ of mandamus emanating from this Court unless the Petitioner has a statutory right and inaction is vis-vis statutory right affecting exercise of the right by the Petitioner.

Sri M S Rajendra, learned Counsel for the Petitioner submits that he is taken by surprise to make submissions on merits of this petition as the matter had been connected with other writ petitions and is not ready to make submissions on the

merits of the matter today: that another writ petition filed by the very writ Petitioner is coming up before the court on 29.11.2010 for preliminary hearing.

List this matter on 29.11.2010 for orders.

ORDER DT. 30.11.2010

Mr. Vivek Holla, learned Counsel for the Petitioners requests some more accommodation to conclude his research work and make submissions.

2. Petition is vehemently opposed by the 2nd Respondent - KIADB and so also other land owners impleaded as Respondents figuring as 3 to 16. However Respondent Nos. 3 and 4 represented by Sri. Venkata Krishna and Sri Srinivasa Gowda, learned Counsel respectively submits that even Respondents oppose the prayer in the petition and have also filed their statement of objections. Other Respondents are either not represented or have not filed counter. Some other Respondents are represented, but not all.

3. Sri Venkatesh Dodderi, learned AGA appearing for 1st Respondent - State, also submits that the petition prayer is opposed by the State Government: that in fact the State Government has not proceeded ahead by issue of a declaration u/s 28 (4) of the Land Acquisition Act, 1984, and that in itself shows that the acquisition proceedings are not feasible etc.

4. Be that as it may, it is open to the State Government to file their objections if they choose to do so, by 2.12.2010.

List for further orders on 2.12.2010.

ORDER DT. 2.12.2010

Sri Vivek Holla, learned Counsel for the Petitioners, is not ready to point out the statutory provisions which enable the Petitioners to have applied under the provisions of Karnataka Industries (Facilitation) Act, 2002 and the Rules framed thereunder, on which heavy reliance is placed by Sri Holla to submit that a writ of mandamus can be issued and though the learned Counsel for the Petitioners has drawn my attention to the provisions of Sections 3 (2), 4 (2) and 5 of this Act, I do not find any scope for the Petitioners to seek for issue of a writ of mandamus on the basis of these statutory provisions, as none of these provisions enables the Petitioners to file an application before the state high level single window clearance committee nor do these provisions envisage a corresponding duty on the part of such a committee vis-vis the application of the Petitioners.

List on 6-12-2010 for further orders, as requested by learned Counsel for the Petitioners.

ORDER DT. 6.12.2010

Sri Vijayakumar, learned AGA files statement of objections on behalf of the first Respondent-state.

Heard further.

List in the further orders category, though the matter is heard in part, on 8-12-2010, as requested by Sri Vivek Holla, learned Counsel for the Petitioners.

ORDER DT. 8.12.2010

Sri Ashok Haranahalli, learned Advocate General, appearing for the state government, submits that in terms of statement of objections filed on behalf of the state government placed before the court yesterday and which is supported by an affidavit sworn to by Sri K H Seshagiri Under Secretary, sworn on 1-12-2010, it is indicated in para-8 of this statement, reading as under:

8. It is submitted that the acquisition of land was taken up on the request of the Petitioner. But it could not be completed due to various reasons explained in the foregoing paragraphs. At any rate, the Petitioner who is aware of the opposition by the land owners and is not ready to reach a negotiated settlement to ease the acquisition is not entitled to seek direction of the nature prayed for in the writ petition. It is submitted that the Respondent No. 1 cannot be compelled to acquire land if it finds it not feasible to acquire the lands. The amount of Rs. 16,56,59,175/- was collected on the basis of the direction to send draft final notification. But it does not give any right to the Petitioner to seek a direction to acquire lands which could not be completed owing to representations, litigations and unwillingness of Petitioner to negotiate with the land owners or identify alternate lands.

that it is not now possible for the state government to go ahead with the acquisition proceedings nor to complete the same, in the wake of the developments that have taken place and also due to the stiff opposition by the land owners whose lands are sought to be acquired, as from the beginning the stand of the state government was that acquisition can be made provided there are no impediments and with such stiff resistance and impediments on the part of land owners, it is not possible for the state government to conclude the acquisition proceedings, as is sought for by the Petitioners in this petition and therefore submits that writ petition may be dismissed.

Sri Vivek Holla, learned Counsel for the Petitioners, who has received a copy of the statement of objections filed on behalf of the state government, would like to make further submissions in this context and if need be even by filing a rejoinder, and requests the matter to be taken up on 13-12-2010.

List the matter for further orders/hearing on 13-12-2010

It is in this background, the matter is taken up for further hearing today.

17. The Respondent-state government, after considerable procrastination and virtually under the pressure of this Court for their inaction in not responding to the petition averments, has, at last, filed its statement of objections on 1-12-2010, which is noticed in terms of the order passed on 8-12-2010 extracted

above.

18. Sri Vivek Holla, learned Counsel for the Petitioners, on his part, apart from having very vehemently urged that the writ Petitioners have statutory right for seeking issue of a mandamus from this Court to compel the state government to proceed further with the acquisition proceedings and particularly for issue of a declaration in terms of Section 28 (4) of the Act and for concluding the proceedings, has brought to the attention of the court the provisions of Sections 3, 4, 5, 6, 12 and 13 of the facilitation Act and has also drawn my attention to the state industrial policy for the years 2001-2006, particular reference is made to paras-4.4 and 4.4, reading as under:

4.4 DEREGULATION OF BUSINESS ENVIRONMENT

(a) The Principal objective of the policy framework for industry in Karnataka will be to provide an enabling environment for the growth of industry. One of the key reform measures will be to simplify the regulatory framework to enable ease of doing business in the State. The regulatory framework extant is fraught with a multiplicity of acts and rules, a multiplicity of registers to be maintained and returns to be filed by entrepreneurs as well as a plethora of approvals to be obtained. Industry is today also subject to several inspections carried out by various Govt. departments/agencies under the provisions of a variety of acts and rules. The existing regulatory framework constitutes in many ways a barrier to the growth of industry. The entrepreneurs encounter difficulties both at the entry/implementation level as well as during operations:

(b) Deregulation of business environment is therefore imperative. With the objective of providing an efficient, responsive and transparent administrative framework for industry, the following is envisaged:

1. To bring in comprehensive Industries Promotion/ Deregulation measures through amendments to the existing rules;
2. Karnataka Udyog Mitra (KUM) shall be the Nodal Agency to guide and to provide assistance to the entrepreneurs as well as to obtain the required clearances/consents/ approvals/ registrations/ license from the various departments at the implementation stage of a project.
3. To reduce the multiplicity of Application forms, a Combined Application Form (CAF) shall be introduced.
4. Industries to be segregated into two categories:
 - a) A restricted list of dangerous hazardous, and polluting industries which will continue to be subjected to the normal approval procedure and
 - b) All other Industries in the open list eligible for fast track clearances.
5. Under "Fast Track Clearance" entrepreneurs will be required to complete the CAF and submit it to KUM as a single window for obtaining necessary clearances

from the various departments concerned:

6. The Multiplicity of Registers / Records to be maintained under various Acts/ Rules will be simplified and rationalised by introducing Combined Registers/ Records, wherever possible.

7. The Multiplicity of periodical returns to be filed will be simplified and rationalised by introducing Combined Returns, wherever possible.

8. Inspections by various authorities of different departments shall be minimized and regulated through a random annual inspection and inspections only on the basis of complaints.

9. Providing for a scheme of self-certification by the entrepreneur confirming compliance of the extant laws and rules. Such self-certification to be supported by a stringent penalty structure for default

(c) The Government of Karnataka will also commission a bi-annual survey of industry. This will be aimed at obtaining primary data on key performance indicators of industry, which will serve as the input for policy prescriptions, based on the analysis of empirical data generated. This survey will also serve as a platform for Govt./Industry partnership and provide valuable inputs to direct policy changes/application of corrections.

(d) To enable a real time response both by Govt. as well as industry to the various implications of the multilateral trading regime under the WTO, the Government of Karnataka will in collaboration with Indian Institute of Management, Bangalore and National Law School of India establish a WTO Relay Centre. This relay centre will be managed jointly by KCTU and VITC from Govt. side and by the Industry Associations /Bodies from the Industry side. The objective of this centre will be the following.

i) Establish a credible and extensive database on WTO and its implications for sectors/Sub-sectors as well as products and processes that are likely to be affected by the WTO. This database will be made available to industry as well as policy makers to enable them to design a suitable response.

ii) To lend legal technical and administrative support to user industries effected by WTO on the one hand as well as to enable them to make use of the opportunities for export markets.

iii) Relay compliance levels expected in terms of quality, technical standards, sanitary and Phyto-sanitary standards, product and Process methods that local industry will have to comply with to meet the global standards prescribed under the WTO; and iv) Enabling capacity building in institutions in Karnataka to meet sector specific needs for quality testing, and compliance of these standards.

5.0 Streamlining the Single Window Mechanism:

In order to ensure that the Single Window mechanism for approval/monitoring of

projects is made effective, the following modifications in the existing scheme shall be incorporated:

a) There will be only one High Level committee chaired by the Hon"ble Minister for Large & Medium Industries to consider and approve all investment proposals in excess of Rs. 50 Crores in all sectors including Industry, Tourism, IT, BT, Agro Food Processing & Infrastructure. The composition of the Committee will be suitably modified to include the concerned ministers and officers;

b) The State level Single Window Agency under the Chairmanship of Principal Secretary to Govt. Commerce & Industries Dept, will henceforth consider and approve all projects of investments upto Rs. 50 Crores in each case including Industry, Tourism, IT, BT, Agro Food Processing & Infrastructure. The composition of the Committee will also be modified suitably to include officers of the concerned departments and agencies:

c) The District level Single Window Agency headed by the Deputy Commissioner will henceforth examine all proposals in all sectors including Industry, Tourism. IT, BT, Agro Food Processing & Infrastructure with investment of up to Rs. 3.0 Crores.

Separate orders detailing the powers, authorities and functioning of the above committees will be issued.

19. Statutory provisions such as Sections 3, 4, 5, 6, 12 and 13 of the facilitation Act are as under:

3. State High Level Clearance Committee.-

(1) The State Government may by notification constitute a single point clearance committee called as State High Level Clearance Committee consisting of such members as may be specified therein.

(2) The Committee shall examine and consider the proposals received from any entrepreneur relating to any industrial and other projects to be set up in the State, with an investment of rupees fifty crores and above in each case.

(3) Member of the Committee shall personally attend the meeting and in case he is unable to attend the meeting, he may depute a senior level officer to attend the meeting with a written authorisation to take appropriate decision in the meeting.

4. Functions of the Committee.-

(1) The Committee shall meet at such times and in such places and shall adopt such procedure to transact its business as may be prescribed.

(2) The Committee shall examine the proposals for setting up any industrial undertakings referred to in Sub-Section 12) of Section 3 and shall take a decision and communicate its decision to the entrepreneur and the concerned departments or authorities within such time as may be prescribed.

5. Powers of the Committee.-

The Committee shall be the final authority in granting approvals for the projects placed before it. The approvals given by the Committee shall be binding on all the concerned departments or authorities and such departments or authorities, shall issue the required clearances within the stipulated time and subject to compliances by the entrepreneur undertaking of the provisions of the applicable Central or State Acts and the rules made there under.

6. State Level Single Window Clearance Committee.-

(1) The State Government may by notification constitute a single window clearance committee for the State called as the "State Level Single Window Clearance Committee" consisting of such members as may be specified therein,

(2) The State Level Single Window Clearance Committee shall examine and consider proposal received from the entrepreneurs relating to industrial and other projects to be set up in the State with an investment of more than three crores rupees and less than rupees fifty crores each.

(3) A member of the Committee shall personally attend the meetings and in case he is unable to attend the meeting he may depute a senior level officer with a written authorisation to take appropriate decision in the meeting.

12. Appointment of Nodal Agency.- (1) The State Government may, by notification, appoint the Karnataka Udyoga Mitra as a "Nodal Agency" at the State level and the "District Industries Centres" as the "District Nodal Agency" at the district level to undertake investment promotional activities and to render necessary guidance and assistance to entrepreneurs to set up industrial undertakings in the State.

13. Functions of the Nodal Agency.-

(1) The functions of Nodal Agency at the district level shall among others includes the following:

(a) to carryout investment promotional activities.

(b) to render necessary assistance in policy formulation for industrial progress, (c) to guide and assist entrepreneurs to set up industries in the State, (d) to issue combined application form to the entrepreneurs and also to receive the forms from them and to arrange required clearances from departments and authorities within the stipulated time.

(e) to provide secretarial support to the High level Clearance Committee, State level Single Window Clearance Committee and the District level Single Window Clearance Committee.

(f) to promote environment friendly and clearer technology and production practices,

(g) to perform any other function as may be entrusted to it by the State Governments.

(2) The State level Nodal agency shall also perform functions referred to in Sub-section (1) and in addition prepare and regularly update an entrepreneurs guide providing complete particulars relating to,-

(i) State and Central Industrial policies,

(ii) Procedure to obtain the required clearances from the department and authorities

(iii) information on industrial status and advantages existing in the State.

(iv) Salient features of Acts and the rules made thereunder applicable to an industrial undertaking, and

(v) any other information useful to the entrepreneurs.

20. Sri Holla, learned Counsel for the Petitioners while drawing attention to the state industrial police and the provisions of the Act, which is an enactment legislated to usher in development of areas as industrial areas and the provisions of the facilitation Act, submits that the facilitation Act being the latest piece of legislation and for enabling the entrepreneurs who are desirous of setting up industries, with the main and sole object to help for prompt setting up of such industries, particularly with the creation of what is known as single window agency and the high level committee acting for effectuating the creation of single window agency and for helping entrepreneurs, it should be taken that when once the high level committee has resolved in principle that a particular project should be cleared, the other authorities in the state or even statutory bodies like the Respondent-board, pollution control board, departments of the government etc., all should act in aid of the resolution of the high level committee and should actively participate for the project proposed by the entrepreneur being implemented; that the basic need for a project like that of the Petitioners, being one of acquisition of land for setting up its industry, it is the board and other statutory functionaries and the departments of the state government should all act for implementation of the project, but on the contrary, with the officials of the board and the state government acting for exactly the opposite viz., by not taking the proceedings initiated by issue of a preliminary notification, to its logical conclusion, that inaction is writ large on the part of the state government and therefore a writ of mandamus should necessarily be issued.

21. It is also submitted that the conduct and action on the part of the board and state government through its functionaries like the high level committee is nothing short of holding out an assured promise to the Petitioners that it will utilize its powers and authority for ensuring that requisite extent of land required for the execution of the project of the Petitioners will be acquired and handed over to the Petitioners and in fact the Petitioners having been forced to remit the initial deposit of Rs. 1.979 crore and later the Board having received another

deposit of Rs. 13, 47,42,612/- and even the said amount Rs. 13,47.42,612/- having been returned to the Petitioners after the filing of the writ petition, the board having received by way of a deposit a total sum of Rs. 16,56,59,175/- and the Petitioners having deposited this amount by way of demand draft along with their letter dated 18-1-2006, it is not open to the Respondent-state and also the board to rescile from their stand of acquiring the land and hand over it to the Petitioners; that the statement of objections filed as of now, cannot have any impediment or cannot be an excuse for the inaction on the part of the state government and even the board having forwarded the draft proposal for issue of a declaration in terms of Section 28 (4) of the Act, the only impediment placed by the state government being that the land owners are not willing to part with the lands, is nothing short of a lame excuse; that when the state government is exercising its statutory power, is bound to act in consonance with the statutory provisions, the present defence for the inaction is not either tenable or acceptable and therefore has strongly urged for allowing this writ petition by issuing a writ in the nature of mandamus as prayed for.

22. Learned Counsel for the Petitioners would submit that the principles of promissory estoppel is well recognized in law in terms of the judgment of the Supreme Court in the cases of Gujarat State Financial Corporation Vs. Lotus Hotels Pvt. Ltd., , UNION OF INDIA v. INDO-AFGAN AGENCIES LTD [AIR 1968 SC 718] and State of Punjab Vs. Nestle India Ltd. and Another,].

23. I have heard Sri Ashok Haranahalli, learned Advocate General along with Sri Venkatesh Dodderi, learned AGA on behalf of the state government, Sri Basavaraj v. Sabarad, learned Counsel for the Respondent-board, Sri L S Venkatakrishna, learned Counsel for third Respondent, Sri K Srinivasa Gowda, learned Counsel for fourth Respondent and Sri M v. Vedachala, learned Counsel for 17th Respondent, who have all very vehemently and stoutly opposed the petition and urged for dismissal of the writ petition.

24. On behalf of the state, submission of Sri Ashok Haranahalli, learned Advocate General is that while it is no doubt true that the state government did examine the proposal at the initial stages, but the assurance to the Petitioners was never an absolute or unqualified assurance; that acquiring land for the benefit of the Petitioners and for implementation of the project was only subject to the condition that there was no impediment for the implementation of the project and was subject to the condition that there was no impediment for the acquisition of the land and as the land owners very strongly opposed the acquisition proceedings and having pointed out that many of them themselves had developed the lands in question for even industrial purpose and are having their own industry and such other activities, and therefore the state government found it not feasible to go ahead with the acquisition proceedings and therefore has now resolved not to go further with the acquisition proceedings, and as indicated in the statement of objections, proposed to drop the acquisition proceedings and therefore the prayer in the writ petition cannot be acceded to

and urges for dismissal of the writ petition.

25. Submission of Sri Basavaraj v. Sabarad, learned Counsel for the Respondent-board is not much different; that the board had always acted pursuant to the directions of the state government and when objections/ representations were received from land owners and persons interested in the land, it was shown that there was considerable opposition and as a matter of fact, it was found that many of other projects of the land owners themselves had been cleared by public authorities and they themselves having embarked on such development activity, it was found not feasible to acquire the very lands for the purpose of the implementation of the Petitioners' project and therefore it did not go ahead with the finalization of the proposed acquisition proceedings and therefore urges for dismissal of the writ petition. It is the further submission of the learned Counsel for the Respondent-board that the state government and the board encountered genuine and substantial hurdles for taking possession of the land and for the logical conclusion of the acquisition proceedings. In support of his submission, learned Counsel for the Respondent-board relies upon the decision of the Supreme Court in the case of *Special Land Acquisition Officer, Bombay and Others Vs. Godrej and Boyce,]*, particularly the following portion in para-6 of this judgment:

... If the Government is reluctant to go ahead with the acquisition in view of these genuine difficulties, it can hardly be blamed. We see no justification to direct the Government to acquire the land and embark on such a venture. We are also of the opinion that the fact that the Government exercised the power of withdrawal after the writ petition was filed does not spell mala fides, once the existence of circumstances, which, in our opinion, justified the Government's decision to withdraw is acknowledged.

26. Submission of learned Counsel for the Respondent-board is that with this enunciation of law by the Supreme Court, though was in the context of the provisions of Section 48 of the Land Acquisition Act, 1894, is very much attracted to the present situation and therefore a writ of mandamus as sought for by the Petitioners cannot be issued, notwithstanding the reliance placed on the principles of promissory estoppel etc.

27. Sri M V. Vedachala, learned Counsel for 17th Respondent, on his part, apart from pointing out the statement of objections on behalf of his client, adopts the submissions made on behalf of the state government and the board, also submits that reliance placed on the principles of estoppel is a misconceived; that in fact no statutory promise had been held out by the state government or the board for the benefit of the Petitioner; that neither the provisions of the Act nor the provisions of the facilitation Act have enabled the government to hold out promises of the nature as, perhaps, is claimed by the Petitioners; i.e. the act. of accepting deposit amounts to holding out a promise that it will acquire lands identified by the Petitioners for the purpose of their project and hand over the same; that the scheme of these two enactments does not necessarily enable the

state government to acquire private lands in the name of public purpose, when the beneficiary is only a private individual and therefore the principles of promissory estoppel, assuming that it is one recognized to some extent in law in terms of the judgments relied upon by the learned Counsel for the Petitioners, it has no application in the present situation and therefore submits that the writ petition is only to be dismissed in terms of the judgment of the Supreme Court in the case of GODREJ & BOYCE [supra].

28. Submission of Sri Vedachala is that identification of lands to be acquired that too not by the state government or the board, but by private individuals even prior to embarking upon initiation of acquisition proceedings and in going ahead with the acquisition proceedings by invoking the provisions of the Act is virtually preemptive of the provisions of Section 28 (2) of the Act, which enables a fair and proper opportunity being given to the affected and interested persons in the land proposed for acquisition and if acquisition of the particular land is a foregone conclusion, this statutory provision is reduced to a farce and such cannot be the understanding of the statutory provisions and therefore even assuming that the facilitation Act seeks to provide for some expedient administrative functioning, it only be fore encouraging entrepreneurs and industrialists but it can never be said that such results can be achieved at. the cost of violating or overlooking statutory provisions and sacrificing the interest of affected land owners and therefore submits that the so-called promissory estoppel cannot operate to the benefit of the Petitioners to compel the government or the board to complete the acquisition proceedings and if a writ of mandamus is to be issued it will only amount to giving complete go-by to the requirement of Section 28 (2) of the Act.

29. It is also submitted by Sri Vedachala that the Petitioners' industry is nothing short of a private family interest and assuming that the Petitioners should embark on setting up some industry, it is nothing short of promoting private family interest and in a situation of this nature, no public interest is involved, as is required under the provisions of the Act for acquiring private land by the state government in the name of a public purpose. In fact, it is submitted, that if the state government has stopped short of issuing a declaration in terms of Section 28 (4) of the Act, it is not because of the inaction, but because of the necessity and the fact situation revealed that the state government could not act for issue of a declaration, as no public interest, in fact, is involved for making a declaration etc.

30. Learned Counsel for 17th Respondent also submits that a writ of mandamus will be issued only when there is a breach of statutory duty by a public authority and it cannot be said that there is any such breach in the present case vis-vis a corresponding statutory right in favour of Petitioners etc. It is submitted that the principle of law is that no mandamus can be issued without a violation of right statutorily or otherwise being pointed out by the inaction and in the present case, the Petitioners not having any statutory right at all, submits that no case is

made out to issue a writ of mandamus and therefore urges for dismissal of the writ petition.

31. Sri L S Venkata Krishna, learned Counsel for third Respondent, submits that the principle of promissory estoppel cannot be called in aid, particularly as the government is always expected to act in public interest; that the concept of public interest involves interest of all citizens; that it also includes the interest of private land owners and more so when their lands are sought to be compulsorily taken over by the state government by using its statutory power and in a situation of this nature, when the affectation to private land owners is much greater than the affectation if any to an entrepreneur, who proposes to set up or who has plans for setting up his/her project or industry in the land owned by some other private individuals, the principles of promissory estoppel is not really attracted, as in the first instance, no state government can hold out a promise or assurance in favour of any of the industrialist or entrepreneur that it will acquire lands of any private persons to the liking or to the convenience of private individual entrepreneurs or industrialists by using its statutory powers and had over such lands to private entrepreneur/industrialists; that the law does not even enable or recognize holding out a promise of this nature, it is a misnomer to think that the government or the board had held out a promise to the Petitioners either by mere acceptance of the amount deposited by the Petitioners or because of some communication made between the Petitioners on the one side and the state government and the board on the other, while examining the feasibility of acquisition proceedings already initiated, and therefore submits that the writ petition is only to be dismissed.

32. It is in the background of such submissions and pleadings on behalf of the Petitioners and the Respondents, the present writ petition is required to be examined and disposed of.

33. The simple question for examination and answer is as to whether the Petitioners have made out a case for issue of a writ of mandamus as is sought for. In so far as issue of a writ of mandamus is concerned, which is a conventional prerogative writ, as is understood in the constitutional law as has developed in England, a writ of mandamus is issued only when a right of a person or a citizen is denied or taken away by the inaction on the part of a public authority/statutory authority, which has a corresponding public duty to act, but has failed to perform such duty.

34. Sine qua non for issue of a writ of mandamus, is existence of a right, statutory or otherwise in favour of a person who approaches the court for issue of the writ.

35. In so far as the Petitioners herein are concerned, while it may be true that the Petitioners have embarked on setting up a project and as it is not the function of this Court to examine the feasibility or possibility or genuineness or bona fides of such project, while that aspect is not examined, and it is assumed

to be factually so for the purpose of examining this petition, that the project is a bona fide one, a practical one etc., the question is not so much as what kind of project the writ Petitioners have proposed to set up, but what kind of right particularly, a statutory right Petitioners have and the existence of which has to be examined, in the context of an existing inaction on the part of a public authority having a corresponding duty.

36. Though Sri Vivek Holla, learned Counsel for the Petitioners, has drawn my attention to several statutory provisions of the facilitation act, there is nothing in these provisions which enables the Petitioners to positively seek for acquisition in their favour a particular piece or parcel of land by the state government, that too for exercising its statutory power under another enactment viz., the KIAD Act.

37. While the statutory provisions referred to and relied upon by the learned Counsel for the Petitioners, no doubt, prescribes a procedure and the manner in which the state government or the so-called high level committee set up by the state government, may go about its functioning that necessarily, does not mean or enables a person to apply under this Act for acquiring a particular piece of land by using state's power under the provisions of the KIAD Act.

38. While it is true that and as submitted by the learned Counsel for the Petitioners that under the Land Acquisition Act also, the state has power to acquire land for the benefit of companies, what is being examined in the present situation is not the provisions of the Land Acquisition Act but the provisions of the Act in the background of facilitation Act.

39. Under the Act, while acquisition of land becomes for a public purpose, when the state government wants to develop the area as an industrial area through its agencies or boards, initially by prescribing the boundaries of the area sought to be developed and later on embarking upon the acquisition of parcels of land in furtherance of the scheme envisaged within the industrial area, it is all done in general and in the larger public interest and not vis-vis a private individual. The moment the state government or the board embarks on an adventure or rather misadventure to acquire private lands in the name of public purpose, for the benefit of a private individual or a private family concern, the very requirement of the state acting for the benefit of the larger public interest disappears and existence of a public purpose for the benefit of a larger public order and the society is immediately lost and it no longer remains a public purpose. Benefit for a private individual/family whether by using or misusing statutory powers or otherwise can never be characterised to be a public purpose.

40. Moreover, the so-called facilitation in favour of entrepreneurs or industrialists under the provisions of the facilitation Act, assuming that it aims at such facilitation, can only be for cutting down the different administrative impediments and bureaucratic hassles, particularly what with bureaucratic lethargy and impediments being legendary in our country and if the government was intending to cut down red-tapism and usher in an era of efficiency and prompt action/

service, while that is laudable, that cannot be equated to the efforts on the part of either the state government or of the board to provide for private individual benefits to even entrepreneurs and industrialists in the name of facilitation of the process of their applications for setting up industries by giving a go by to the statutory provisions and requirements to be fulfilled as mandated under the provisions of the KIAD Act.

41. All administrative actions and statutory provisions are amenable to judicial review by superior courts in the exercise of writ jurisdiction. Such administrative action or legislative action are always tested on the touchstone of the constitutional provisions and the relevant statutory provisions in the case of administrative actions and at times, even on the touchstone of want of legislative competence on the part of the particular legislature enacting the law.

42. Ultimately, in situations of the present nature, enabling a person like the Petitioners to get private lands at a price to be fixed by a public authority, is nothing short of state administering its largesse in favour of a private individual. Whenever state largesse is sought to be administered/distributed requirement of state acting in a fair manner and in an evenhanded manner immediately springs into action due to the mandate of Article 14 of the Constitution of India with its brooding omni presence, compelling the state to always provide equal opportunity to all aspirants whenever the state embarked upon administration of any state largesse. In a situation of this nature, examining an individual application like that of the Petitioners for acquiring private lands in the ownership of private individuals, which, the Petitioners might have found convenient or suitable for setting up their project, which can, nevertheless, be achieved even without utilization rather misutilization of the power of state government under the provisions of the facilitation Act or KIAD Act and a benefit of this nature even if is sought to be conferred on private entrepreneurs or industrialists in the manner as is sought to be claimed in the present petition, it will be nothing short of a clear transgression by the state of the mandate of Article 14 of the Constitution of India, as it is eliminating opportunity to all intending aspirants and Article 14 does not approve or promote examination of such requests, one at a time and thereby avoid a competitive evaluation of the comparative merits of all aspirants or even the need for a fair and equitable distribution of the state largesse in favour of all aspirants.

43. In the present case, while statutory provisions do not even enable the state to embark upon an acquisition of present nature in favour of private individuals like the Petitioners and on the other hand it will only be an exercise in futility, as discussed above, I do not find any statutory right in favour of the Petitioners to petition this Court for issue of a writ of mandamus. When the Petitioners do not even have a statutory right and even on through examination of the statutory provisions referred to by the learned Counsel for the Petitioners, as I do not find any enabling provisions in favour of the Petitioners for applying to the government to request the government to acquire any particular piece of land or

any area of land in private ownership by the State Government exercising its statutory powers and by performing a statutory duty, a writ of mandamus can never originate from this Court.

44. There is absolutely no scope for issue of a writ of mandamus in a situation of this nature. The argument of promissory estoppel is ill-conceived in a situation where a right, statutory or otherwise, does not exist and a right cannot be claimed by the mere factum that some steps had been taken by the state government or the high level committee for facilitating the project of the Petitioners. The concept of facilitation is only to facilitate expediency and not to facilitate things which are otherwise not legal or not enabled in law. Such cannot be the understanding of the word "facilitation" and therefore placing reliance on either the so-called facilitation provisions under this Act or to say that the action taken under this Act by some statutory authorities or other authorities, has virtually resulted in a promise being held out by the state government in favour of the Petitioners is not an acceptable argument. In fact, as pointed out by the learned Counsel for the Respondents" assuming that there was a promise (while there is none in the present use) and, assuming it to be so, it being not relatable or traceable to any statutory provisions, the principles of promissory estoppel being stretched to the extent of compelling the state government to perform acts in violation or in contravention of the governing the statutory provisions, is not and cannot be an argument in favour of the Petitioner to result in a benefit in favour of the Petitioners at the cost of larger public interest state adhering to laws and statutory provisions in itself is an act on the part of the state to further the larger public interest.

45. In the present case and in any view of the matter, the judgments relied upon by the learned Counsel for the Petitioners do not advance the case of the Petitioners for issue of a writ of mandamus in the present situation and therefore the present writ petition is dismissed, levying cost of of Rs. 5,000/- (Rupees five thousand only) on the Petitioners, in favour of each of the Respondents 1 to 17. Cost shall be paid or deposited before this Court within four weeks from today and on such deposit, Respondents are permitted to withdraw the amount through their counsel. In the event of failure on the part of the Petitioners to deposit the cost within the stipulated time, the registry is directed to issue a certificate in favour of each of the Respondents, for recovery of the cost, as though it is a decree passed by a civil court.

46. Writ petition dismissed.

RE: WP No 30309 OF 2010 & WP No 10933 OF 2007:

47. WP No 30309 of 2010 is also by the very Petitioners in WP No 23084 of 2005, which has been listed for preliminary hearing and which was encountering difficulties for listing the matter for preliminary hearing due to defective/incomplete presentation of the petition and otherwise also and at the request of the learned Counsel for the Petitioners, the matter is now listed along with WP

No 23084 of 2005.

48. In this petition, the Petitioners have sought for the following relief:

- i. Issue a Writ of Certiorari or any other Writ, Order or Direction quashing the impugned notification bearing No. CI 586 SPQ 2008, dated 31.08.2010 produced at ANNEXURES passed by the First Respondent;
- ii. Pass any other Writ. Order or Direction as this Hon"ble Court deems fit under these facts and circumstances of the case, in the interest of justice and equity.

49. Sri Joshua H Samuel, learned Counsel for the Petitioners, submits that there is a slight distinguishing feature in this petition and it is submitted that the relief sought for is in the context of a withdrawal notification or notification issued in terms of Section 21 of the General Clauses Act, 1897, issued by the state government, withdrawing from acquisition proceedings in respect of an extent of 3 acres 19 guntas of land in Sy No 33 of Iblur village, Begur hobli, Bangalore south taluk, owned by Respondents 3 and 4 in this petition [Respondents 9 and 10 in WP No 23084 of 2005).

50. In the first instance, the Petitioners cannot claim a vested right in any of acquisition proceedings and a right on an immovable property becomes vested only when the person acquires title to the property and not at any point of time before. In so far as the subject land is concerned, it is undisputedly in the ownership of Respondents 3 and 4 and assuming that they have sold or transacted even in violation of the preliminary notification, as had been issued by the state government proposing acquisition of such land for a public purpose, such a question or such a ground and argument does not assume much significance in the present situation for the simple reason that this Court has found fault with the manner of exercise of statutory provisions by the state government and the board, as elaborately discussed above, while dismissing WP No 23084 of 2005, which is filed by the very Petitioners, and having opined that it amounts to abuse and misuse of statutory power.

51. Be that as it may, when the Petitioners do not have any right, statutorily or otherwise, it is a fortiori so that the Petitioners cannot claim any vested right in a matter of this nature vis-vis such lands, which, perhaps, might have at one point of time figured in the notification issued u/s 28 (1) of the Act.

52. It is also relevant to notice here that one such land owner viz., fourth Respondent in WP No 23084 of 2005 has himself filed WP No 10933 and has sought for the following prayer:

i to issue a notification u/s 4 of the Karnataka Industrial Area Development Board Act, excluding the Petitioner's land bearing Sy. No. 14, measuring 2 acres 39 guntas, situated at Ibbalur Village, Bangalore South Taluk, from the industrial area, included in Annexure C, D and E all dated 16.10.2004.

it or in the alternative, to issue an endorsement to the Petitioner communicating

the decision of the Government dated 21.02.2006 to drop the acquisition proceedings of the land bearing Sy. No. 14, measuring 2 acres 39 guntas, situated at Ibbalur Village, Bangalore South Taluk, Bangalore Urban District and grant such other relief as this Hon'ble Court deems fit to grant in the circumstances of the case as per his request in the representation dated 15.06.2006 and 21.05.2007 as Annexures - G and H.

53. While a writ of mandamus to compel the state government either to acquire or not to acquire [a land] cannot be issued, in the wake of discussions made above in WP No 23084 of 2005, wherein it is indicated that the acquisition of subject lands for the benefit of Petitioners therein being not a proper or legal proceeding, as statutory powers are sought to be virtually misused or misutilized for the benefit of private individuals/family in the name of public purpose, the preliminary notification cannot be allowed to stand indefinitely and particularly with the state government having indicated in their statement of objections before this Court that it does not propose to go ahead with the acquisition proceedings by issue of a declaration in terms of Section 28 (4) of the Act, the preliminary notification is not more required to exist for any real purpose and no need to allow that to stand in isolation, without any purpose or objective to be achieved and therefore instead of issuing a writ of mandamus as sought for by the Petitioners in both these petitions, a writ of certiorari is issued and the preliminary notification is quashed.

54. WP No 30309 of 2010 is accordingly dismissed levying cost of Rs. 5,000/- (Rupees five thousand only) on the Petitioners, in favour of each of the Respondents 1 to 5. Cost shall be paid or deposited before this Court within four weeks from today and on such deposit, Respondents are permitted to withdraw the amount through their counsel. In the event of failure to deposit the cost within the stipulated time, the registry is directed to issue a certificate in favour of the Respondents, for recovery of the cost, as though it is a decree passed by a civil court.

55. WP No 10933 of 2007 is allowed in part with cost in favour of the Petitioners as against the Respondents 2 and 3 at the rate of Rs. 5,000/- (Rupees five thousand only) each. Cost shall be paid or deposited before this Court within four weeks from today and on such deposit, Petitioners are permitted to withdraw the amount through their counsel. In the event of failure to deposit the cost within the stipulated time, the registry is directed to issue a certificate in favour of the Petitioners, for recovery of the cost, as though it is a decree passed by a civil court. Rule made absolute.

RE: WP No 3252 of 2006:

56. This petition is also by some of the land owners whose lands were proposed to be acquired under the very same preliminary notification as discussed while dismissing WP No 23084 of 2005, whose position is similar to the Petitioner in WP No 10933 of 2007, but with the difference that in this petition, the land

owners have also sought for quashing of the preliminary notification.

57. Hence, in the wake of the discussion made above, this petition is also allowed in part and the preliminary notification impugned is quashed by issue of a writ of certiorari, with cost in favour of the Petitioners against the Respondents 3, 4 and 5 at the rate of Rs. 5,000/- (Rupees five thousand only) each. Cost shall be paid or deposited before this Court within four weeks from today and on such deposit, Petitioners are permitted to withdraw the amount through their counsel. In the event of failure to deposit the cost within the stipulated time, the registry is directed to issue a certificate in favour of the Petitioners, for recovery of the cost, as though it is a decree passed by a civil court. Rule made absolute to this extent.