
(2010) 09 AHC CK 0271

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 66604 of 2009

Rajendra Estate Pvt.Ltd.

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 24-09-2010

Acts Referred:

Land Acquisition Act, 1894 — Section 17(4), 4, 5A

Citation : (2010) 09 AHC CK 0271

Hon'ble Judges : P.C.Verma, J and R.A.Singh, J

Final Decision : Dismissed

Judgement

Mr. Justice P.C. Verma.

1. By means of the present writ petition, petitioners have challenged the impugned Notification issued under Section 4 r/w Section 17(4) of the Land Acquisition Act (hereinafter referred to as the Act) dated 11092008 published on 16.7.2009 in Hindi News Paper Dainik Jagran from New Delhi and the notification issued under Section 6 r/w Section 17(1) of the Act dated 30.9.3009 which was published on 26112009, so for as it relates to the land of the petitioner's Company.

2. The case of the writ petitioner in short is that the petitioner is a private limited company which interalia engaged in the business of the real estate, colonization and development and for this purpose the petitioner had purchased and is in possession of 182 acres of agricultural land in Village Salarpur Khadar, PargnaDadri, Distt. G.B.Nagar. Notwithstanding the approval given by the Noida the petitioner was shocked to learn the issuance of the Section 4 Notification dated 11092008 by which an area of 227.077 Hect. of land, including the land alleged to be owned and possessed by the Petitioner, was proposed to be acquired. Hence this writ petition.

3. We have heard at length Sri R.B. Singhal, Learned Senior Advocate assisted by Sri Sanjay Kaushik, Advocates on behalf of the Petitioners, Sri M.C.

Chaturvedi, Chief Standing Counsel for Respondents Nos. 1 and 2 and Sri R.P Singh on behalf of the Respondents Nos. 3 and 4.

4. In this Writ Petition, the Respondents State and Noida have filed separate counters affidavits. Rejoinder affidavit has been filed by the Petitioner to the Counter filed by the State.

5. Sri R.B. Singhal, learned Senior Advocate assisted by Sri Sanjay Kaushi, Advocates appearing for the petitioner confined his challenge only on the ground that the notifications dispensing with an enquiry under Section 5A, have been issued without application of mind. There was no urgency for acquisition of the land for Planned Industrial Development. The right under Section 5A to file objections, is a very important right of the tenure holder and cannot be taken away lightly. The further contention of the learned counsel for the petitioner has been that there was no material before the State Government so as to come to a subjective satisfaction to invoke the urgency clause and to dispense with the provisions of Section 5A.

6. Learned counsel for the petitioner has relied upon the decision in the case of Union of India and others Vs. Mukesh Hans (2004) 8 SCC 14, contended that in fact there is no unforeseen emergency before the authorities to take possession over the land in dispute. The authorities have exercised the power which is unsustainable under law. Particularly paras 30 and 32 of the aforesaid judgment relied upon by learned counsel for the petitioners, are quoted below:

"30. Subsection (2) of Section 17 contemplates a different type of urgency inasmuch as it should be an unforeseen emergency. Under this section if the appropriate Government is satisfied that there is such unforeseen emergency the authorities can take possession of the land even without waiting for the fifteen day period contemplated under Section 9(1). Therefore, in cases, where the Government is satisfied that there is an unforeseen emergency, it will have to in the normal course, issue a Section 4(1) notification, hold Section 5A inquiry, make Section 6 declaration, and issue Section 9(1) notice and possession can be taken immediately thereafter without waiting for the period of 15 days prescribed under Section 9(1) of the Act."

"32. A careful perusal of this provision which is an exception to the normal mode of acquisition contemplated under the Act shows that mere existence of urgency or unforeseen emergency though is a condition precedent for invoking Section 17(4), that by itself is not sufficient to direct the dispensation of the Section 5A inquiry. It requires an opinion to be formed by the Government concerned that along with the existence of such urgency or unforeseen emergency there is also a need for dispensing with Section 5A inquiry which indicates that the legislature intended the appropriate Government to apply its mind before dispensing with Section 5A inquiry. It also indicates that mere existence of an urgency under Section 17(1) or unforeseen emergency under Section 17(2) would not be itself be sufficient for dispensing with Section 5A inquiry. If that was not the intention

of the legislature then the latter part of subsection (4) of Section 17 would not have been necessary and the legislature in Sections 17(1) and (2) itself could have incorporated that in such situation of existence of urgency or unforeseen emergency automatically Section 5A inquiry will be dispensed with. But then that is not the language of the section which in our opinion requires the appropriate Government to further consider the need for dispensing with Section 5A inquiry in spite of the existence of unforeseen emergency. This understanding of ours as to the requirement of an application of mind by the appropriate Government while dispensing with Section 5A inquiry does not mean that in each and every case when there is an urgency contemplated under Section 17(1) and unforeseen emergency contemplated under Section 17(2) exists that by itself would not contain the need for dispensing with Section 5A inquiry. It is possible in a given case the urgency noticed by the appropriate Government under Section 17(1) or the unforeseen emergency under Section 17(2) itself may be of such degree that it could require the appropriate Government on that very basis to dispense with the inquiry under Section 5A but then there is a need for application of mind by the appropriate Government that such an urgency for dispensing of the Section 5A inquiry is inherent in the two types of urgencies contemplated under Sections 17(1) and (2) of the Act."

7. Learned counsel for the petitioner further relied on paras 35 and 36 of decision in the case of Union of India (supra), which reads thus:

"35. At this stage, it is relevant to notice that the limited right given to an owner/person interested under Section 5A of the Act to object to the acquisition proceedings is not an empty formality and is a substantive right, which can be taken away for good and valid reason and within the limitations prescribed under Section 17(4) of the Act.

The object and importance of Section 5A inquiry was noticed by this Court in the case of *Munshi Singh v. Union of India* [(1973) 2 SCC 337], wherein this Court held thus : "Section 5A embodies a very just and wholesome principle that a person whose property is being or is intended to be acquired should have a proper and reasonable opportunity of persuading the authorities concerned that acquisition of the property belong to that person should not be made.The legislature has, therefore, made complete provisions for the persons interested to file objections against the proposed acquisition and for the disposal of their objections. It is only in cases of urgency that special powers have been conferred on the appropriate Government to dispense with the provisions of Section 5A.

36. It is clear from the above observation of this Court that right of representation and hearing contemplated under Section 5A of the Act is a very valuable right of a person whose property is sought to be acquired and he should have appropriate and reasonable opportunity of persuading the authorities concerned that the acquisition of the property belonging to that person should not be made. Therefore, in our opinion, if the appropriate Government decides to take away this minimal right then its decision to do so must be based on

materials on record to support the same and bearing in mind the object of Section 5A."

8. Learned counsel for the petitioner has contended that the subjective satisfaction for invoking the provisions of Section 17(4) of "the Act" was not independent of satisfaction for invoking Section 17 subsection (1) and that both these satisfactions were really independent of each other and had to be arrived at as such. Further that State Government was not justified in invoking the provisions of Section 17(4) of "the Act" on the facts and circumstances of the case.

9. Learned counsel appearing on behalf of the respondents authority repelling the aforesaid contentions advanced on behalf of the petitioners" counsel contended that there is no error in applicability of Section 17 subsection (4) of "the Act" to the present proceedings, as there was sufficient material before the State authorities to come to that decision and further for acquisition of the present type wherein large area of land had to be acquired for the purpose of planned industrial development of the area undertaken by "Greater Noida", urgency clause could be legitimately invoked.

10. It is next contended by learned counsel for the respondents authority that possession of the land in question has been taken over by the State authorities and the same was handed over to the "Greater Noida" on 3.2.2010.

11. In the counter affidavit filed by the State, it has been clearly mentioned that the land was acquired to the requiring body for the purpose of planned Industrial development and reasoning has been given for invoking to the urgency clause dispensing with to the Section 5A of the Act. The State authorities/Collector considered the reasoning for invoking the urgency clause of the Act and placed satisfaction. The reasoning and satisfaction has been annexed as Annexure No. 2 to the counter affidavit filed by the state. The relevant extract reads as under:

12. The learned Chief Standing Counsel has contended that that the entire proposal was before the State Government, on which the mind was applied and keeping in view of the material on record, the State government approved the entire proposal where after the notification was issued under Section 4(1) read with Section 17(4) of the Act dispensing with the enquiry under Section 5A. The learned Chief Standing Counsel contends that the said approval mounts the recording of satisfaction on the existing material for issuance of the notification invoking the dispensing with the enquiry under Section 5A, as is clear from the notification issued. In order to substantiate his submission, the learned Chief Standing Counsel relied upon the judgments reported in 2010(2) ALJ 573 ""Mahavir Singh and others Vs. State of U.P. and others", 2009(8) ADJ 360 ""Munshi Singh Vs. State of U.P. and others", 2008(9) ADJ 135 ""M/s Swatantra Bharat Paper Mills Pvt. Ltd. and another Vs. State of U.P. and others", 2008(1) UPLBEC 211 ""Manjulata Agarwal Vs. State of U.P. and others", 2008(6) ALJ 727 ""Jasraj Singh Vs. State of U.P. and others", AIR 2008 SC 2284 ""M/s Sheikhar

Hotels Gulmohar Enclave and another Vs. State of U.P. and others", AIR 2005 SC 565 ""M/s Anand Buttons Ltd. vs. State of Haryana and others", AIR 2002 SC 1314 ""First Land Acquisition Collector and others Vs. Nirodhi Prakash Gangoli and another".

13. The learned Chief Standing Counsel has also placed reliance on the case of Tara Chand & others VS. State of UP & others decided by this Court on 31.8.2010 in Civil Misc Writ Petition 10428 of 2010 in which reasoning given and submitted to the State authorities have been taken into consideration and almost identical question was considered at great length.

14. The counsel for the NOIDA, Sri Ramendra Pratap Singh adopted the submissions of the learned Chief Standing Counsel and has supported the contents of the record, which have been produced before the Court even though the counter affidavit filed by the NOIDA fully supports to the counter affidavit filed by the State authorities.

15. We have considered the rival submissions advanced on the basis of the pleadings, the original records and the decisions relied upon by the contesting parties. We find that the proposal submitted by the committee and duly countersigned by the Additional District Magistrate (Land Acquisition) recites the urgency for which the land was acquired namely to provide the land to Prospective Potential Investors to support the Planned Industrial Development in the State. The proposal further states that in the event such land was not provided immediately, the investors would migrate to other States, which would have an adverse impact on the Planned Industrial Development of the State. It is only when the investors are provided immediate allotment of the land, the Planned Industrial Development would be possible. On the basis of the aforesaid report of the Committee, the Collector granted certificate in Form 10 agreeing with the report of the Committee and recommended for issuing notification by invoking the urgency provisions under Section 17(4) by dispensing with the enquiry under Section 5A of the Act. The aforesaid material was before the State Government, which after applying the mind, was subjectively satisfied for invoking the urgency clause under Section 17(1) and (4) of the Act. In view of this fact, it cannot be said that there was no material before the State Government for invoking the urgency clause and thus the argument of the petitioner in this regard, has no force and is rejected.

16. The adequacy and reliability of the material on the basis of which the conclusion is reached, cannot be permitted to be canvassed before the Court in writ jurisdiction. [Vide Rajinder Kumar Kindra v. Delhi Administration Through Secretary (Labour) and others, (1984) 4 SCC 635; The General Court Martial and others v. Col. Aniltej Singh Dhaliwal, AIR 1998 SC 983 and R.S. Saini v. State of Punjab and others, (1999) 8 SCC 90].

17. The truth or correctness of the material will not be questioned by the Court nor will it go into the adequacy of the material. Even if some of the materials on

which the action is taken is found to be irrelevant, the Court would still not interfere so long as there is some relevant material sustaining the order.[Vide Constitution Bench judgments in Rameshwar Prasad and others v. Union of India and others, AIR 2006 SC 980 and Raja Ram Pal v. Hon''ble Speaker Lok Sabha and others, (2007) 3 SCC 184.

18. In our opinion, the Government has applied its mind to the relevant materials on record for invoking the urgency clause and dispensing with the enquiry under Section 5A of the Act and the submission in this regard by the petitioner, is wholly misconceived and is liable to be rejected.

19. We have also perused the decision in the case of Union of India and others Vs. Mukesh Hans : (AIR 2004 SC 4307) (supra) with specific reference to paras 32 and 33 thereof. The Apex Court in the said case clearly holds that the language of subsection (4) of Section 17 of the Act requires the appropriate Government to further consider the need for dispensation of the inquiry under Section 5A of the Act apart from the existence of any urgency or unforeseen emergency as contemplated under Section 17 (1) and (2) of the Act. The mere existence of the aforesaid contingency may not automatically be the basis for dispensation of Section 5A of the Act and that the State Government is required to separately apply its mind to find out the existence of any further emergency for dispensation of the inquiry under Section 5A of the Act.

20. We have also perused the Division Bench judgment in the case of Manju Lata Agrawal (supra) where the Court has taken into consideration the judgment of the Apex Court on the aforesaid issues and which judgment, we are informed, has been affirmed by the Apex Court. The said judgment also takes notice of the arguments that were advanced on the strength of the judgment in the case of Mukesh Hans (supra). Paragraph 22 of the case of Manju Lata Agrawal (supra) is quoted below which discusses the said proposition:

"22. In Mukesh Hans (supra) the Hon''ble Supreme Court considered as to whether in case of urgency under Section 17(1) or in case of emergency under Section 17(2), the powers under Section 17(4) could be automatically invoked for dispensing with the inquiry, required under Section 5A of the Act. The Court placing reliance upon its earlier judgment in Nandeshwar Prasad and others Vs. U.P. Government and others, AIR 1964 SC 1217, came to the conclusion that Section 17 (4) carves out an exception to the normal mode of acquisition. Mere existence of urgency or unforeseen emergency may not necessarily compel the Government to dispense with Section 5A inquiry. The appropriate Government has to apply its mind as to whether urgency under Section 17(1) or unforeseen emergency under Section 17(2) warrants dispensation of the inquiry under Section 5A and such an order is not automatic or consequential."

21. The Court further in para 71 of the same decision has held as follows:

"71. In view of the aforesaid settled legal proposition, it emerges that the land can be acquired for public purpose; the expression ""public purpose" cannot be

defined by giving a specific definition as the same cannot be fitted in a straitjacket formula. The facts and circumstances of each case have to be examined to find out whether acquisition is for a public purpose. Right to property is a constitutional/statutory/human right of an individual person. A person interested has a right to file objections under Section 5A of the Act though such a right is limited for pointing out that the purpose for which the land is acquired is not a public purpose of the land of the said person is not suitable for that purpose or the area of the land sought to be acquired would be excessive for serving the said purpose as the land cannot be acquired for some other collateral purpose. Such objections form the basis of an enquiry under Section 5A of the Act. In exceptional circumstances where there is a grave urgency or unforeseen emergency, the Government is competent to invoke the urgency powers contained under Section 17 of the Act and take possession before making the Award. In a case of urgency emergency Government is also competent to take a decision that in order to avoid further delay, the enquiry envisaged under Section 5A of the Act be dispensed with, but for taking such a decision, there must be existing any relevant material before the Government and it must apply its mind as to whether the urgency is such that persons interested are to be deprived of their right to file objections under Section 5A of the Act. Invoking the provisions under Sections 17(1) or 17(2) of the Act would not automatically dispense with the inquiry under Section 5A. There has to be an independent decision by the State Government for such dispensation. Section 17(4) itself indicates that the "Government may direct that the provisions of Section 5A shall not apply". The recital of such an opinion in the order or in notification is not necessary. Nor reasons have to be recorded in this regard in the official records. It is a case of subjective satisfaction of the Government and once the Government forms the opinion and dispenses with the enquiry under Section 5A of the Act, the Court, in its limited jurisdiction of judicial review, cannot declare the acquisition proceedings bad. Pre or postnotification delay or lethargy on the part of the officials of the State Government is not fatal to acquisition proceedings. Very often persons interested in the land proposed to be acquired make various representations to the concerned authorities against the proposed acquisition. This is bound to result in a multiplicity of enquiries, communications and discussions leading invariably to delay in the execution of even urgent projects, very often the delay makes the problem more and more acute and increases the urgency of the necessity for acquisition. There is no prohibition in law for acquiring the land for a public purpose, which is not in conformity with the land use shown in the Master Plan, by the Government. Acquisition of the land for a use other than the use for which it had been earmarked in the Master Plan can be proposed amendment/modification of the Master Plan by the State Government. Planned development proposed should not be installed at the behest of a few aggrieved persons, where as huge chunk of land belongs to a very large person is involved."

22. Lastly, learned counsel for the petitioner has placed reliance on paragraphs

No. 29, 30, & 31 of the case of Anand Singh & another Vs. State of U.P. & others reported in JT 2010 (8) SC 15. The relevant paragraphs are quoted below:

"29. "Eminent domain" is right or power of a sovereign State to appropriate the private property within the territorial sovereignty to public uses or purposes. It is exercise of strong arm of government to take property for public uses without owner's consent. It requires no constitutional recognition; it is an attribute of sovereignty and essential to the sovereign government.

30. The power of eminent domain, being inherent in the government is exercisable in the public interest, general welfare and for public purpose. Acquisition of private property by the State in the public interest or for public purpose is nothing but an enforcement of the right of eminent domain. In India, the Act provides directly for acquisition of particular property for public purpose. Though right to property is no longer fundamental right but Article 300A of the Constitution mandates that no person shall be deprived of his property save by authority of law. That Section 5A of the Act confers a valuable right to an individual is beyond any doubt. As a matter of fact, this Court has time and again reiterated the Section 5A confers an important right in favour of a person whose land is sought to be acquired. When the government proceeds for compulsory acquisition of particular property for public purpose the only right that the owner or the person interested in the property has, is to submit his objections within the prescribed time under Section 5A of the Act and persuade the State authorities to drop the acquisition of the particular land by setting forth the reasons such as the unsuitability of the land for the stated public purpose ; the grave hardship that may be caused to him by such expropriation, availability of alternative land for achieving public purpose etc. Moreover, right conferred on the owner or person interested to file objections to the proposed acquisition is not only an important and valuable right but also makes the provision for compulsory acquisition just and in conformity with the fundamental principles of natural justice. The exceptional and extraordinary power of doing away with an enquiry under Section 5A in a case where possession of the land is required urgently or in unforeseen emergency is provided in Section 17 of the Act. Such power is not a routine power and save circumstances warranting immediate possession it should not be lightly invoked. The guideline is inbuilt in Section 17 itself for exercise of the exceptional power in dispensing with enquiry under Section 5A. Exceptional the power, the more circumspect the government must be in its exercise. The government obviously, therefore, has to apply its mind before it dispenses with equity under Section 5A on the aspect whether the urgency is of such a nature that justifies elimination of summary enquiry under Section 5A. A repetition of statutory phrase in the notification that the State Government is satisfied that the land specified in the notification is urgently needed and provision contained in Section 5A shall not apply, thought may initially raise a presumption in favour of the government that prerequisite conditions for exercise of such power have been satisfied, but such presumption may be displaced by the circumstances themselves having no reasonable nexus

with the purpose for which power as been exercised. Upon challenge being made to the use of power under Section 17, the government must produce appropriate material before the court that the opinion for dispensing with the enquiry under Section 5A has been formed by the Government after due application of mind on the material placed before it. It is true that power conferred upon the government under Section 17 is administrative and its opinion is entitled to due weight, but in a case where the opinion is formed regarding the urgency based on considerations not germane to the purpose, the judicial review of such administrative decision may become necessary. As to in what circumstances the power of emergency can be invoked are specified in Section 17(2) but circumstances necessitating invocation of urgency under Section 17(1) are not stated in the provision itself. Generally speaking, the development of an area (for residential purposes) or a planned development of city, takes many years if not decades and, therefore, there is no reason why summary enquiry as contemplated under Section 5A may not be held and objections of land owners/ persons interested may not be considered. In many cases on general assumption, likely delay in completion of enquiry under Section 5A is set up as a reason for invocation of extraordinary power in dispensing with the enquiry little realizing that an important and valuable right of the person interested in the land is being taken away and with some effort enquiry could always be completed expeditiously. The special provision has been made in Section 17 to eliminate enquiry under Section 5A in deserving and cases of real urgency. The government has to apply its mind on the aspect that urgency is of such nature that necessitates dispensation of enquiry under Section 5A. We have already noticed few decisions of this Court. There is conflict of view in the two decisions of this Court viz Narayan Govind Gavate(supra) and Pista Devi (Supra). In Om prakash (supra) this Court held that decision in Pista Devi (supra) must be confined to the fact situation in those days when it was rendered and the two Judge Bench could not have laid down a proposition contrary to the decision in Narayan Govind Gavate (Supra). We agree. As regards the issue whether prenotification and post notification delay would render the invocation of urgency power void, against the case law is not consistent. The view of this Court has differed on this aspect due to different fact situation prevailing in those cases. In our opinion such delay will have material bearing on the question of invocation of urgency power, particularly in a situation where no material has been placed by the appropriate government before the court justifying that urgency was of such nature that necessitated elimination of enquiry under Section 5A.

31. In a country as big as ours, the roof over head is a distant dream for large number of people. The urban development continues to be haphazard. There is no doubt that planned development and housing are matters of priority in developing nation. The question is as to whether in all cases of planned development of the city or for the development of residential area the power of urgency may be invoked by the government and even where such power is invoked, should the enquiry contemplated under Section 5A be dispensed with

invariably. We do not think so. Whether planned development of city or development of residential area cannot brook delay of few months to complete the enquiry under Section 5A? In our opinion, ordinarily it can. The government must, therefore, do a balancing act and resort to the special power of urgency under Section 17 in the matters of acquisition of land for the public purpose viz; planned development of city or for development of residential area in exceptional situation. Use of the power by the government under Section 17 for planned development of the city or the development of residential area or for housing must not be as a rule but by way of an exception. Such exceptional situation may be for the public purpose viz., rehabilitation of natural calamity affected persons; rehabilitation of persons uprooted due to commissioning of dam or housing for lower strata of the society urgently; rehabilitation of persons affected by time bound projects, etc. The list is only illustrative and not exhaustive. In any case, sans real urgency and need for immediate possession of the land for carrying out the stated purpose, heavy onus lies on the government to justify exercise of such power. It must, therefore, be held that the use of the power of urgency and dispensation of enquiry under Section 5A by the government in a routine manner for the planned development of city or development of residential area and thereby depriving the owner or person interested a very valuable right under Section 5A may not meet the statutory.....nor could be readily sustained."

23. The law laid down by the Hon"ble Apex Court in the aforesaid paragraphs is the law of the land. In the aforesaid paragraphs, it has been held that the question of invocation of urgency power particularly in the situation where no material has been placed by the appropriate Government before the Court justifying with urgency or such a nature that necessitated enquiry under Section 5A of the Act. The dictum of the Hon"ble Apex Court in the aforesaid paragraphs is based on the following circumstances:

The view of this Court is differed on this aspect due to different facts situation prevailing in those cases. In our opinion such delay will have material bearing on the question of invocation of urgency power particularly in a situation where no material has been placed by appropriate Government before the Court justifying that urgency was of such a nature that necessitated the elimination of enquiry under Section 5A of the Act. The court has further directed to make representation to the land owner under Section 48(1) of the Act as the possession was not taken over. These two factors have been the basis of interpretation of an application of Section 5A of the Act. Here in the present case the material has been placed before the Court and perusal of the material shows that the material is sufficient for subjective satisfaction to invoke the urgency clause, therefore, the ratio of the aforesaid judgment is not applicable in the facts and circumstances of the case.

24. There cannot be any dispute with the proposition which has been settled by this Court. However, to our mind the facts of the present case as discussed herein above, clearly indicate that there was a specific proposal for dispensation

of the provisions of Section 5A of the Act and which has been separately noticed by the State Government whereafter it was approved. This approval, therefore, amounts to applying mind specifically to the aspect of dispensation of enquiry under Section 5A of the Act and the submission made on behalf of the petitioners does not appear to be correct.

25. State Government considered the recommendation of the requiring body for which the land was sought to be acquired and after being satisfied on the facts stated for invoking urgency clause, the Collector after applying the mind invoked the urgency clause.

26. It is settled law that for invoking the urgency clause contained under Section 17(4) & 17 (1) of the Act the only subjective satisfaction is required of the authority and the authority after perusal of the material facts satisfied on the material facts sent by the body for which the land is acquired to invoke the urgency clause.

27. The decision of the State Government dispensing with an inquiry under Section 5A of "the Act" in the present case was arrived at "real and genuine subjective satisfaction" based upon the relevant materials available with the State authorities at the time when it issued the impugned notification under Section 4(1) of "the Act" and dispensed with Section 5A inquiry by resorting to Section 17, subsection (4) as well as Section 17 (1) of "the Act". Thus the arguments of the petitioner fails. No other grounds of challenge is pressed.

28. In view of the discussions made herein above, we do not find any merit in the instant writ petition. The writ petition is accordingly dismissed. The interim order, if any, stands vacated. There shall be no order as to costs.