
(2014) 07 MP CK 0102
In the Madhya Pradesh High Court
Case No : W.P. No. 6004/2013

Rajesh Bhadoriya

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 08-07-2014

Acts Referred:

Works of the Defence Act, 1903 — Section 3, 7

Citation : (2014) 07 MP CK 0102

Hon'ble Judges : S.K. Palo, J;S.K. Gangele, J

Bench : Division Bench

Advocate : Pavan Dwivedi, Advocate for the Appellant; Raghvendra Dixit, Government Advocate, Saurabh Jain, Deepak Khot and Sanjeev Jain, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

1. Heard.

2. The petitioners in this Public Interest Litigation prayed that a direction be issued to the respondents to comply the provisions of notification dt. 17.9.2005 (Annexure P-2) and the construction raised within the area prohibited by the notification after 17.9.2005 be ordered to be demolished.

3. Union of India established Defense Research Development Organisation in the year 1958. One branch of the Organisation named as Defense Research Development Organisation was established in the city of Gwalior in the year 1963. Union of India in exercise of powers conferred by Section 3 of the Work of Defence Act 1903 (hereinafter referred to Act of 1903) imposed restrictions upon the use and enjoyment of the land described in the scheduled annexed alongwith the notification. The relevant notification and schedule is as under:-

New Delhi, the 30th August 2005

S.R.O. 105 - In exercise of the powers conferred by Section 3 of the Works of

Defence Act, 1903(7 of 1903), the Central Government hereby declares that it is necessary to impose the restrictions specified in clause (c) of Section 7 of the said Act, upon the use and enjoyment of the land described in the Schedule hereto annexed, being land lying in the vicinity of Defence Research and Development Establishment (DRDE), Jhansi Road, Gwalior in the State of Madhya Pradesh in order that the said land may be kept free from building and other obstructions.

2 A sketch plan of the said land may be inspected in the Office of the District Collector, Gwalior, Madhya Pradesh.

Schedule

All the lands comprised in the area lying within a distance of approximately (218 yards) 200 meters from the crest of the outer parapet of the Defence Research and Development Establishment (DRDE), Jhansi Road, Gwalior in the State of Madhya Pradesh.

[F. No. DCWE/07/34079/WDA/DRDE] S.K. DEB, Under Secy.

4. In accordance with the aforesaid schedule, all the land comprised in the area within a distance of approximately 200 mtrs. from the portion of the Defense Research Development Organisation could not be used and the land shall be kept free from the buildings and other obstructions. It is also provided in the Act of 1903 that the Appropriate Government has power to demolish construction after payment of damages or acquire the land after the payment of compensation, which comes within the periphery of 200 mtrs.

5. There are number of important buildings within the periphery of 200 mtrs. At the Defense Research Development Organisation which was established at Gwalior. It is not possible to shift the aforesaid buildings. The facts noticed in the knowledge of the Secretary, Defence by the Mayor vide letter dt. 6.6.2012 and also by the Collector Gwalior vide letter dt. 6.4.2013. In the aforesaid letters, it was pleaded that following important establishments and buildings are situated within the periphery of 200 mtrs.:

6. Number of persons owners of the land within the periphery. Even there is a main railway line connecting national route Gwalior to Delhi and Gwalior to Jhansi is within the periphery of 200 mtrs. It was pointed out to the authority that it is not possible to shift all the establishments. It is also a fact that if all the establishments be shifted and the appropriate compensation be awarded to the owners of the land, then more than Rs. Five Thousand Crores are required to be paid to the owners of the land. In one of the case - Case No. 354/12-13/B-121 [Dr. (Smt.) Benu Dubey vs. Director, DRDE, Jhansi Road, Gwalior, M.P.], the Collector has awarded compensation of Rs. 4,60,00,000/- of the land area 6000 sq. ft.

7. From the facts of the case, it is clear that it is for the Union of India - respondent No. 1 to take a decision in the matter looking to the ground reality

because the persons, who are the owners of the land and whose land come within the periphery of 200 mtrs. of the area, which is restricted as per the notification 30th August 2005, can not use their land neither they are getting compensation.

8. Hence, the petition is disposed of with the direction that respondents No. 1 and 2 shall take a decision in the matter after considering the letters written by the Mayor and the Collector within a period of three months from the date of copy of the orders.

9. No order as to costs.