

(2025) 11 JH CK 1901

In the Jharkhand High Court

Case No : Writ Petition (C) No. 4130 Of 2021, 1592, 1595 Of 2022, 4678, 6039 Of 2023

R.S. Education Foundation Pvt. Ltd

APPELLANT

Vs

State Of Jharkhand through its Principal Secretary, Urban Development & Housing Department

RESPONDENT

Date of Decision : 14-11-2025

Acts Referred:

Constitution of India, 1950 — Article 40, 243, 243B, 243C, 243D, 243ZD, 243E, 243F, 243ZF, 243G, 243H, 243O
Jharkhand Panchayat Raj Act, 2001 — Section 75(10) , 123(ii)(d), 131

Citation : (2025) 11 JH CK 1901

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : Indrajit Sinha, Ankit Vishal, Arpan Mishra, Bhaskar Trivedi, Kumar Harsh, Prashant Kr. Singh, Karbir

Final Decision : Allowed

Judgement

Deepak Roshan, J

1. Heard the learned counsel for the parties.
2. In the batch of matters, common questions of Law based on similar factual foundation are involved and hence can be disposed of by a common order.
3. WPC no. 1592 of 2022 Prem Lata Agarwal versus Ranchi Regional Development Authority and others was treated as the lead case and the facts of the petition are being taken of note for the purposes of adjudication of the petitions.

Before proceeding further, it would be pertinent to mention that in all these writ petitions, the respective petitioners, inter alia, have challenged the original orders passed by the Vice Chairman, Ranchi Regional Development Authority, and the appellate orders passed by the Appellate Authority, RRDA cum RMC,

Ranchi by which original orders have been upheld by which the buildings have been ordered to be demolished.

4. The writ petition filed by Premlata Agarwal, it has been stated that by registered deed of sale dated 3 October 2008 (Annexure 01), the petitioner purchased a land and a structure standing thereon which is situated in village Sidroll, under Thana Namkum, Revenue Thana no. 218 appertaining to Khata no. 27, plot nos. 1145 and 1146 in the district of Ranchi. After purchasing the land, the petitioner got her name mutated in the office of the Circle Officer and has been paying rent to the State Government. The petitioner intended to construct a new building on the land and as per the extant law and practice, the petitioner applied for and was granted permission by the Mukhiya of the Gram Panchayat on 12 January 2011 to construct the building, and the said permission has been placed on record by way of Annexure 18 to the writ petition. Thereafter, the petitioner constructed a structure (godown) with GCI sheets and after completion of the construction applied for and was granted electricity connection in the year 2014.

In the year 2021, a proceeding being UC Case no. 169 of 2021 was initiated against the petitioner questioning the legality of the construction of the godown by the petitioner over the land in question on the ground that no permission/approval was obtained from the RRDA prior to the construction of the building. The petitioner contended before this Court that she was not aware of the above proceedings in UC Case No. 169 of 2021 as no notice was served on her, however, she came to know about the initiation and pendency of the said proceeding from another proceeding being UC Case No. 178 of 2021 and thereafter the petitioner appeared and filed her show cause/reply, inter alia, questioning the maintainability of the proceedings apart from raising other grounds. A copy of the reply has been brought on record by way of Annexure 4 to the writ petition.

5. The Vice-Chairman, Ranchi Regional Development Authority, Ranchi by an order dated 19 January 2022, directed the petitioner to demolish the godown situated over the land which was located in village Sidroll within a period of 30 days, failing which it was mentioned that the structure would be forcibly demolished at the cost of the petitioner. Further, the direction to seal the structure within a period of 15 days was issued and the planning section, town planner and executive engineer were directed to ensure such sealing.

Aggrieved and dissatisfied with the order dated 19 January 2022, the petitioner preferred an appeal before the Appellate Tribunal, Ranchi Regional Development Authority cum Ranchi Municipal Corporation, Ranchi and the petitioner's appeal was registered as Miscellaneous Appeal Case No. 07 of 2022.

6. An application was filed on 31 January 2022 before the Tribunal seeking stay of the order dated 19 January 2022, and consequently, vide an order dated 4 February 2022, the order dated 19 January 2022 was ordered to be remain

stayed by the appellate authority, but only to the extent of the order directing demolition, whereas the part of the order by which sealing of the building/structure was ordered was not stayed. The petitioner resultantly filed a petition under Art 226 of the Constitution of India before this Court and the Writ Petition was numbered as WPC no. 691 of 2022.

The said writ petition was disposed of by an order dated 21 February 2022, giving liberty to the petitioner to prefer a fresh application in the pending appeal seeking amendment/clarification of the interim order dated 4 February 2022.

7. A fresh application, in the light of the liberty granted by the High Court, was filed by the petitioner before the Appellate tribunal on 22 February 2022 seeking modification/ clarification of the order dated 4 February 2022. Said application came to be rejected by an order dated 3 March 2022.

Thereafter, the Vice-Chairman, RRDA, i.e. the original Authority, which had passed the order dated 19 January 2022, directed the Sub-Divisional Officer, Sadar, Ranchi to depute police force on 14 March 2022, so as to ensure that the godown/structure constructed by the petitioner be sealed. The building was consequently sealed and still remains sealed.

8. On 21 March 2022, the petitioner filed an application in the pending appeal, raising an objection with respect to the jurisdiction of the respondents RRDA in respect of the subject matter that is the building located in village Sidroll which was a part of a village Panchayat cannot be subjected to the provisions of the Jharkhand Regional Development Authority Act and hence the RRDA lacked jurisdiction to regulate the area.

On 28 March 2022 the Appellate Tribunal, not only dismissed the objection raised by the petition date, 21 March 2022, with respect to the jurisdiction of RRDA and held that the respondents have jurisdiction to decide the question of sanction of map of the godown, but on the very same day dismissed the appeal without giving any further opportunity to petitioner to argue the case on merits.

9. The validity and legality of the orders passed by the original Authority that is the Vice Chairman, RRDA dated 19 January 2022 (annexure 05), and the appellate tribunal's orders both dated 28 March 2022 (Annexures 16 and 17) have been questioned in the present petition along with consequential prayers for a direction to unseal the godown and also to pay adequate compensation computed on the basis of ₹ 7000 per day along with interest at the rate of 18%.

Another prayer has been made in the present petition, which is to hold and declare that the village- Sidroll, which is a part of a village Panchayat has ceased to be under the jurisdiction of Ranchi Regional Development Authority after the Jharkhand Panchayat Raj Act came into force with effect from 10 May 2001. At this juncture, it would be important to note that village- Sidroll was brought under the jurisdiction of Ranchi Regional Development Authority for the operation of the provisions of Chapter VI, by virtue of a notification, no. 124-RRDA dated 7

February 1976, a copy of which has been placed as Annexure 19 to the petition.

10. In the writ petition being W.P.C No. 1595 of 2022, the property which is also a godown situated at Plot No 203/AA Khata No 182 being situated in village Bargawa, under Thana– Namkum, Revenue Thana No 216 District-Ranchi.

11. In the writ petitions being W.P.C No. 4678 of 2023 and W.P.C No. 6039 of 2023, the property is the multi-storied building namely Vijaya Homes situated at Mouza Khijari, Thana No. 219, Plot No. 80 Namkum, Ranchi. The petitioner in W.P.C No. 4678 of 2023 is the builder whereas the petitioners in W.P.C No. 6039 of 2023 are the purchasers of the respective flats in Vijaya Homes have also challenged the demolition order passed in relation to the multi-storied building situated at Mouza Khijari, Thana No. 219, Plot No. 80 Namkum, Ranchi.

12. On the other hand, the respondents have appeared and filed their counter affidavit in which they have maintained that the respondent-RRDA has the jurisdiction in respect of the subject matter, as well as over the area in question and have supported the orders passed by the original as well as the appellate authority on the ground that the construction carried out by the petitioner was without any sanction of map from the competent Authority that is the RRDA and hence was illegal and therefore rightly ordered to be demolished.

The sealing of the property was done in order to ensure that no gain is made by the petitioner till the structure is demolished. The Respondents have submitted that even after the coming to force of the Jharkhand Panchayat Raj Act the notification dated 07.02.1976 continues to hold the field and the same is still in force.

It has been further submitted by the respondents that the village in question as well as the villages which form the subject matter of other petitions are included in the Master Plan of 2037; hence the respondents have rightly exercised jurisdiction over the various villages, which form the subject matter of the batch of petitions.

13. Both the sides, especially the petitioner has extensively taken the court through the provisions of Part IX and IX A of the Constitution of India. The petitioners have contended that after the constitutional amendments, the Regional Development Authorities have been denuded of the power which are now exercisable by the local self-government organisations such as the Panchayat and the Municipalities. Reference has been made to the provisions of Article 243 N to show that any law which is inconsistent with the provisions of the Part IX would only continue to be in force for a maximum period of one year from the coming into force of the 73rd Constitutional Amendment, 1992.

14. Learned counsel for the petitioner in order to buttress his submission has also referred to and relied upon the notification published by the Department of Rural Development, Government of Jharkhand dated 12 August 2017 (Annexure 20) published in the extraordinary gazette no. 575 dated 12 August 2017 by

which the Jharkhand Panchayat Land Development (Map and Building Development) Rules, 2017 have been brought into force. The said Rules have been framed by the State Government in exercise of its powers under section 131 of the Jharkhand Panchayat Raj Act and seek to provide for the procedure of a sanction of a building plan/map in respect to a building, which is to be constructed over an area covered by the operation of the Jharkhand Panchayat Raj Act, 2001.

The Respondents have not disputed the above position. It was therefore contended that the legislative field with respect to sanctioning of a building plan/map in respect of a building to be constructed in an area falling under a Panchayat stands occupied under the Jharkhand Panchayat Raj Act and thus any provision or statute providing anything inconsistent thereto, would be inoperative and void to that extent.

15. Based on the above pleadings and submissions made at the bar, it appears that the main issue which needs to be decided by this Court is with respect to the jurisdiction of the Ranchi Regional Development Authority in respect of areas which are now governed and covered by the Jharkhand Panchayati Raj Act after coming into force of the same with effect from 10 May 2001.

The Jharkhand Panchayat Raj Act, 2001 was enacted by the State of Jharkhand to give effect to the Constitutional mandate as provided by Part IX and section 1 thereof, which provides for the short title, extent and commencement vide clause (ii) provides that the Act extends to the whole of the State of Jharkhand, except the areas to which the provisions of the Patna Municipal Corporation Act, 1951, the Bihar and Orissa Municipal Act, 1922 or the Cantonment Act, 1924 apply.

Reference to Bihar Regional Development Authority Act (as applicable to the State of Jharkhand in the name of Jharkhand regional development Authority act) is conspicuously absent and hence the Jharkhand Panchayat Raj Act would apply even to those areas where the Regional Development Authority Act applies. It would not be out of place to mention that after the coming to force of the Jharkhand Municipal Act, 2011, the reference to the provisions of Patna Municipal Corporation act, 1951 and the Bihar and Orissa Municipal act, 1922 have to be construed accordingly.

In short, the provisions of Jharkhand Panchayati Raj Act, 2001 would extent to the whole of the State of Jharkhand, except where the Jharkhand Municipal Act, 2011 applies.

The changes brought by the 73rd Constitutional Amendment the Panchayats were conferred with greater duties and functions was to ensure that the Panchayat not only perform the role of executing the programmes and policy evolved by political executive of the State, but have been empowered to formulate and implement their own programmes of economic development and social justice in tune with their status as a third tier of the government, which is mandated to represent the interest of the people living within its jurisdiction.

16. The Hon'ble Supreme Court of India in the case of Bondu Ramaswami and others v. Bangalore Development Authority and others, (2010) 7 SCC 129 has observed as under-

"21. Parts IX and IX-A of the Constitution, relating to panchayats and municipalities were inserted by the Constitution (Seventy-third Amendment) Act, 1992 and Constitution (Seventy-fourth Amendment) Act, 1992. Parts IX and IX-A came into force on 24-4-1993 and 1-6-1993 respectively. The object of Part IX was to introduce the panchayat system at grass root level. As panchayat systems were based on State legislations and their functioning was unsatisfactory, the amendment to the Constitution sought to strengthen the panchayat system by giving a uniform constitutional base so that the panchayats become vibrant units of administration in the rural area by establishing strong, effective and democratic local administration so that there can be rapid implementation of rural development programmes. The object of Part IX as stated in the Statement of Objects and Reasons is extracted below:

"In many States, local bodies have become weak and ineffective on account of a variety of reasons, including the failure to hold regular elections, prolonged supersessions and inadequate devolution of powers and functions. As a result, urban local bodies are not able to perform effectively as vibrant democratic units of self-government.

2. Having regard to these inadequacies, it is considered necessary that provisions relating to urban local bodies are incorporated in the Constitution particularly for —

(i) putting on a firmer footing the relationship between the State Government and the urban local bodies with respect to—

(a) the functions and taxation powers; and

(b) arrangements for revenue sharing;

(ii) ensuring regular conduct of elections;

(iii) ensuring timely elections in the case of supersession; and

(iv) providing adequate representation for the weaker sections like Scheduled Castes, Scheduled Tribes and women."

22. We may first refer to the provisions of Part IX in brief. Clauses (d) and (e) of Article 243 define "panchayat" and "panchayat area". Article 243-B deals with constitution of panchayats, Article 243-C deals with composition of panchayats. Article 243-D relates to reservation of seats. Article 243-E stipulates the duration of panchayats. Article 243-F prescribes the disqualification for membership. 243-G refers to powers, authorities and responsibilities of panchayats. Article 243-H refers to power to impose taxes by panchayats and funds of the panchayats.

41. Article 243-ZF is a provision enabling continuance of any provision of a law

relating to municipalities in spite of such provision being inconsistent with the provisions of Part IX-A of the Constitution for a specified period of one year. It does not extend the benefit of continuance to any law other than laws relating to municipalities; it also does not provide for continuance of a law for one year, if the violation is in respect of any constitutional provision other than Part IX-A; and it does not declare any provision of a statute to be inconsistent with it nor declare any statute to be invalid. The invalidity of a statute is declared by a court when it finds a statute or its provision to be inconsistent with a constitutional provision.

45. Part IX-A seeks to strengthen the democratic political governance at grass root level in urban areas by providing constitutional status to municipalities, and by laying down minimum uniform norms and by ensuring regular and fair conduct of elections. When Part IX-A came into force, the provisions of the existing laws relating to municipalities which were inconsistent with or contrary to the provisions of Part IX-A would have ceased to apply. To provide continuity for some time and an opportunity to the State Governments concerned to bring the respective enactments relating to municipalities in consonance with the provisions of Part IX-A in the meanwhile, Article 243-ZF was inserted. The object was not to invalidate any law relating to city improvement trusts or Development Authorities which operate with reference to specific and specialised field of planned development of cities by forming layouts and making available plots/houses/apartments to the members of the public."

17. In the case of *Rajendra Shankar Shukla v. State of Chhattisgarh*, (2015) 10 SCC 400 the Hon'ble Supreme Court observed as under:-

"9. The 73rd and 74th Amendments were inserted in the Constitution of India with the avowed object and intention of strengthening the local self-governance both at the village and district level. It was argued by the learned Senior Counsel Mr Gopal Subramaniam that self-governance was very much a part of the Indian society historically. In support of his contention, he relied upon the words of Sir Charles Metcalfe, the Acting Governor General of India from 1835 to 1836, on the functioning of the village panchayats made during the 19th century which are recorded as under:

"The village communities are little republics, having nearly everything they can want within themselves, and most independent of any foreign relations. They seem to last where nothing else lasts. Dynasty after dynasty tumbles down; revolution succeeds after revolution; but the village community remains the same. The union of the village communities, each one forming a separate little State, in itself, has I conceive, contributed more than any other cause to the preservation of the people of India, through all the revolutions and changes which they have suffered, and is in a high degree conducive to their enjoyment of a great portion of freedom and independence." [Report of the Select Committee of the House of Commons, 1832, Vol. III, p. 331 as quoted in T.N. Srivastava, *Local 'Self' Governance and the Constitution*, EPW 27-7-2002 at pp.

12. It is further to be noted that Schedule VII List II Entry 5 of the Constitution enables the State Legislature to make laws pertaining to local government which also include the powers to be vested on the municipal corporations, improvement trusts, authorities, mining settlement authorities, district boards and other local authorities for the purpose of village administration and the local self-governance. The constitutional amendment in 1992-1993 through the 73rd and 74th Amendment Act provided for uniformity in the structure in terms of three-tier local governments at the District (Zila Parishads-ZPs), Block (Panchayat Samitis-PS) and Village levels (Gram Panchayats-GPs). With the constitutional amendment, the panchayats are constitutionally expected to move away from their traditional role of simply executing the programmes handed down to them by higher levels of Government. They are on the other hand, expected to implement their own programmes of economic development and social justice. The amendments further confer power upon the States in the form of Schedule XI to enlarge the domain of panchayats and to include functions with distributional consequences. This Schedule includes key functions such as agriculture, drinking water, education, irrigation, poverty alleviation, primary, secondary and adult education, roads and rural electrification and maintenance of community assets."

18. In the case of Village Panchayat, Calangute v. Director of Panchayat, (2012) 7 SCC 550 the Supreme Court of India while dealing with the power of the Panchayat to regulate erection of buildings within the Panchayat areas and to take action against unauthorised building constructions held as under:-

"21. The Preamble, Part IV and Part IX of the Constitution must guide our understanding of the Panchayati Raj institutions and the role they play in the lives of the people in rural parts of the country. The conceptualisation of the village panchayat as a unit of self-government having the responsibility to promote social justice and economic development and as a representative of the people within its jurisdiction must be borne in mind while interpreting the laws enacted by the State which seek to define the ambit and scope of the powers and the functions of panchayats at various levels.

22. An analysis of Article 40 and Articles 243 to 243-O shows that the Framers of the Constitution had envisaged the village panchayat to be the foundation of the country's political democracy—a decentralised form of government where each village was to be responsible for its own affairs. By enacting the Constitution (Seventy-third Amendment) Act, Parliament has attempted to remedy the defects and remove the deficiencies of the Panchayati Raj system evolved after Independence, which failed to live up to the expectation of the people in rural India. The provisions contained in Part IX provide firm basis for self-governance by the people at the grass root through the institution of panchayats at different levels.

23. For achieving the objectives enshrined in Part IX of the Constitution, the State Legislatures have enacted laws and made provision for devolution of powers upon and assigned various functions listed in the Eleventh Schedule to the panchayats. The primary focus of the subjects enumerated in the Eleventh Schedule is on social and economic development of the rural parts of the country by conferring upon the panchayat the status of a constitutional body. Parliament has ensured that the panchayats would no longer perform the role of simply executing the programs and policies evolved by the political executive of the State. By virtue of the provisions contained in Part IX, the panchayats have been empowered to formulate and implement their own programs of economic development and social justice in tune with their status as the third tier of the Government which is mandated to represent the interests of the people living within its jurisdiction. The system of panchayats envisaged in this part aims at establishing strong and accountable systems of governance that will in turn ensure more equitable distribution of resources in a manner beneficial to all.

24. In the light of the above, it is to be seen whether the appellant has the locus to challenge the orders passed by Respondent 1 in the appeals filed by the Company. A conjoint reading of the provisions contained in Chapter III of the Act shows that a panchayat is generally required to perform the functions specified in Schedule I and also make provision for carrying out any other work or measures likely to promote the health, safety, education, comfort or convenience or social or economic well-being of the inhabitants of the panchayat area. It also has the power to do all acts necessary for or incidental to carrying out the functions entrusted, assigned or delegated to it. The Sarpanch is not only entrusted with the duty to implement the programme of welfare schemes and other development works, but also stop any unauthorised construction erected in the panchayat area. Section 66 which regulates erection of buildings within the panchayat area empowers it and/or the Sarpanch to take action against erection of building without obtaining permission from the competent authority or any violation of the conditions imposed at the time of grant of such permission. The panchayat is also empowered to issue direction for upkeep and maintenance of sources of water supply which are in private hands."

19. There is no cavil that Part IX of the Constitution of India was enacted to strengthen the Panchayat system by giving a uniform constitutional base across the country, and so that Panchayat becomes vibrant units of administration in the rural area by establishing strong, effective and democratic local administration.

The uniformity on the subject is throughout the territory of India and therefore in respect of the field of construction of building in an area falling within the jurisdiction of Panchayat, the legislation governing the Panchayat system in the particular state is authorised to make provisions in this regard. The field therefore in respect a matter relating to the construction buildings and sanctioning of building plans must therefore be held to be covered and reserved for the legislation relating to panchayats.

20. Entry 5 of List II in the Seventh schedule authorise a State Legislature to enact law with respect to local government, that is to say, the Constitution and powers of local authorities for the purpose of local self-government or village administration.

The 11th schedule read with Article 243G delineate the power and authority, as maybe necessary to enable the Panchayats to function as the institutions of self-government, and enables the State legislature to make a law in this respect. However, the said list is not an exhaustive list. "Rural Housing" is reflected as Entry 10 as a part of the 11th schedule.

It is well settled that an entry in a schedule must be given the widest possible interpretation, and therefore having regard to such legal position, the term Rural Housing must be interpreted to include the power of sanctioning of building plans in terms of the applicable building bye laws.

21. Section 75 (10) of Jharkhand Panchayati Raj Act, 2001 deals with Rural Housing in the following fashion: –

" (10) Rural Housing-

(i) Implementation of rural housing schemes;

(ii) Distribution of house-sites within its jurisdiction;

(iii) Maintenance of records relating to building sites and other private and public properties."

Thus, from the above, especially the mention of maintenance of records relating to building sites and other Private and public properties indicate that the records must be authorised by the Panchayat and such records must include building sanction plans/maps.

22. The conflict between the provisions of the Jharkhand Regional Development Authority Act, particularly that of section 30 mandating the obtaining of permission of the authorities under the Regional Development Authority Act before any development of land is undertaken by the owner and those relating to Rural Housing under the Jharkhand Panchayati Raj Act with the relevant constitutional provisions empowering the Panchayat to govern the field relating to sanction of building maps and plans for construction is writ large.

There cannot be any reconciliation in this respect and therefore one legislation has to make a way for the other.

23. One of the principles of interpretation, in case of conflict between two legislations, is to see which legislation is a later legislation and a special legislation because it is a settled principle of law that later special legislation will prevail over a general legislation enacted at a prior point of time.

24. The Hon'ble Supreme Court of India in Harcharan Dass Gupta v. Union of India, 2025 SCC OnLine SC 1111 has observed that the Special Law would

prevail over the general law. Furthermore, the Hon'ble Apex Court in *Sharat Babu Digumarti v. Govt of NCT of Delhi* (2017) 2 SCC 18 has observed that the Special Law will prevail over the general law and prior laws.

25. In the matter of interpretation of law, subsequent legislation prevails over former legislation. The Latin legal principle '*lex posterior derogat priori*' means that 'a later law repeals an earlier law'. It is a rule of statutory interpretation that dictates if two laws conflict, the more recent one takes precedence because it reflects the legislature's latest intent. This is one of the tests / principles of interpretation, but not the sole basis and is subject to application of other maxims. The maxim has been referred and applied in the following judgments by the Hon'ble Supreme Court of India.

26. In *Chandra Prakash Tiwari & Ors v. Shakuntala Shukla & Ors*, (2002) 6 SCC 127 the Hon'ble Supreme Court at Paras 12 and 14 has been pleased to hold as under:

Para 12 - "... It is on this context Broom's legal Maxim in reference to two Latin Maxims stated as below:

'It is then, an elementary rule that an earlier Act must give place to a later if the two cannot be reconciled – *lex posterior derogat priori* – *non et nonum ut priores leges ad posteriores trahantur* (Emphasis supplied) - and one Act may repeal another by express words or by implication; for it is enough if there be words which by necessary implication repeal it. But a repeal by implication is never to be favoured, and must not be imputed to the legislature without necessity, or strong reason, to be shown by the party imputing it. It is only effected where the provisions of the later enactment are so inconsistent with, or repugnant to, those of the earlier that the two cannot stand together; unless the two Acts are so plainly repugnant to each other that effect cannot be given to both at the same time a repeal cannot be implied; and special Acts are not repealed by general Acts unless there be some express reference to the previous legislation, or a necessary inconsistency in the two Acts standing together, which prevents the maxim *generalalia specialibus non derogant* (Emphasis supplied) from being applied. For where there are general words in a later Act capable of reasonable application without being extended to subjects specially dealt with by earlier legislation, then, in the absence of an indication of a particular intention to that effect, the presumption is that the general words were not intended to repeal the earlier and special legislation, or to take-away a particular privilege of a particular class of persons."

Para 14 - "... So far as the question of implied suppression of the rules made under section 39 of the Act by the General Recruitment Rules as amended in 1977, is concerned, it may be pointed out that the basic principle, as set out in Maxwell's Interpretation of Statutes (11th Edn. p. 168) is that:

"A general later law does not abrogate an earlier special one by mere implication. *Generalalia specialibus non derogant*, or, in other words, 'where there are general

words in a later Act capable of reasonable and sensible application without extending them to subjects specially dealt with by earlier legislation, you are to hold that earlier and special legislation indirectly repealed, altered, or derogated from merely by force of such general words, without any indication of a particular intention to do so'. In such cases, it is presumed to have only general cases in view, and not particular cases which have been already otherwise provided by the special act.'"

27. Further in *Solidaire India Ltd. v Fairgrowth Financial Services Ltd. & Ors*, (2001) 3 SCC 71 wherein [Paras 9 and 10] the Hon'ble Supreme Court has been pleased to hold as under:

Para 9 – "It is clear that both these Acts are special Acts. This Court has laid down in no uncertain terms that in such an event it is the later Act which must prevail. The decisions cited in the above context are as follows: *Maharashtra Tubes Ltd. v. State Industrial & Investment Corporation of Maharashtra Ltd. & Anr.*, [1993] 2 SCC 144; *Sarwan Singh & Anr. v. Kasturi Lal*, [1977] 2 SCR 421; *Allahabad Bank v. Canara Bank & Anr.*, [2000] 4 SCC 406 and *Shri Ram Narain v. The Simla Banking Industrial Co. Limited*, [1956] SCR 603."

Para 10 – "We may notice that the Special Court had in another case dealt with a similar contention. In *Bhoruka Steel Ltd. v. Fairgrowth Financial Services Ltd.* [1997] v. 89 Company Cases 547, it had been contended that recovery proceedings under the Special Court Act should be stayed in view of the provisions of the 1985 Act. Rejecting this contention, the Special Court had come to the conclusion that the Special Court Act being a later enactment would prevail. The headnote which brings out succinctly the ratio of the said decision is as follows:

"Where there are two special statutes which contain non-obstante clauses the later statute must prevail. This is because at the time of enactment of the later statute, the Legislature was aware of the earlier legislation and its non-obstante clause. If the Legislature still confers the later enactment with a non-obstante clause it means that the Legislature wanted that enactment to prevail. If the Legislature does not want the later enactment to prevail then it could and would provide in the later enactment that the provisions of the earlier enactment continue to apply.

The Special Court (Trial of Offences Relating to Transactions and Securities) Act, 1992, provides in Section 13, that its provisions are to prevail over any other Act. Being a later enactment, it would prevail over the Sick Industrial Companies (Special Provisions) Act, 1985. Had the Legislature wanted to exclude the provisions of the Sick Companies Act from the ambit of the said Act, the Legislature would have specifically so provided. The fact that the Legislature did not specifically so provide necessarily means that the Legislature intended that the provisions of the said Act were to prevail even over the provisions of the Sick Companies Act. ..."

28. Reference has also been made in CCI v Bharti Airtel Limited & Ors, (2019) 2 SCC 521.

29. In the case Ashoka Marketing Ltd. & Anr v. PNB & Ors, (1990) 4 SCC 406 wherein Paras 50 – 53 Hon'ble Supreme Court has held as under:

Para 50 – "One such principle of statutory interpretation which is applied is contained in the latin maxim: *leges posteriores priores contrarias abrogant*, (later laws abrogate earlier contrary laws). This principle is subject to the exception embodied in the maxim: *generalalia specialibus non derogant*, (a general provision does not derogate from a special one). This means that where the literal meaning of the general enactment covers a situation for which specific provision is made by another enactment contained in an earlier Act, it is presumed that the situation was intended to continue to be dealt with by the specific provision rather than the later general one (Benion: Statutory Interpretation p. 433-34)."

Para 51 – The rationale of this rule is thus explained by this Court in the J.K. Cotton Spinning & Weaving Mills Co. Ltd. v. The State of Uttar Pradesh & Others, [1961] 3 SCR 185:

"The rule that general provisions should yield to specific provisions is not an arbitrary principle made by lawyers Judges but springs from the common understanding of man and women that when the same person gives two directions one covering a large number of matters in general and another to only some of them his intention is that these latter directions should prevail as regards these while as regards all the rest the earlier directions should have effect."

Para 52 – In U.P. State Electricity Board & Ors. v. Hari Shankar Jain & Ors., [1979] 1 SCR 355 this Court has observed:

"In passing a special Act, Parliament devotes its entire consideration to a particular subject. When a General Act is subsequently passed, it is logical to presume that Parliament has not repealed or modified the former Special Act unless it appears that the Special Act again received consideration from Parliament."

Para 53 – In Life Insurance Corporation v. D.J. Bahadur, [1981] 1 SCR 1083 Krishna Iyer, J. has pointed out:

"In determining whether a statute is a special or a general one, the focus must be on the principal subject matter plus the particular perspective. For certain purposes, an Act may be general and for certain other purposes it may be special and we cannot blur distinctions when dealing with finer points of law."

30. In Sarwan Singh & Ors. v. Kasturi Lal (1977) 1 SCC 750 wherein at Para 21, 22 & 23 the Hon'ble Supreme Court held as under:

"21. For resolving such inter se conflicts, one other test may also be applied

though the persuasive force of such a test is but one of the factors which combine to give a fair meaning to the language of the law. That test is that the later enactment must prevail over the earlier one. Section 14-A and Chapter III-A having been enacted with effect from December 1, 1975 are later enactments in reference to Section 19 of the Slum Clearance Act which, in its present form, was placed on the statute book with effect from February 28, 1965 and in reference to Section 39 of the same Act, which came into force in 1956 when the Act itself was passed. The legislature gave overriding effect to Section 14-A and Chapter III-A with the knowledge that Sections 19 and 39 of the Slum Clearance Act contained non-obstante clauses of equal efficacy. Therefore the later enactment must prevail over the former. The same test was mentioned with approval by this Court in Shri Ram Narain case at p. 615.

22. Relying strongly on the finding at p. 151 in Jyoti Pershad case that "the provisions of the special enactment, as the Act is, will in respect of the buildings in areas declared slum areas operate in addition to the Rent Control Act", counsel for the appellants argues that the question of precedence as between the two Acts is concluded by that decision and we must therefore hold that the conflicting provisions of the two Acts must operate together with equal efficacy, with the result that the previous permission of the competent authority under the Slum Clearance Act must be obtained before instituting any proceeding under Chapter III-A of the Delhi Rent Act. This submission overlooks that in Jyoti Pershad case, which was decided in 1961, the Court did not have before it the amendments introduced into the Delhi Rent Act by the amending Act of 1976, and therefore no question arose as to the effect of the non-obstante clauses contained in Sections 14-A and 25-A of the Delhi Rent Act. The decision is therefore not an authority for the proposition for which the appellants contend and the question arising before us cannot be held to be concluded by that decision.

23. The argument of implied repeal has also no substance in it because our reason for according priority to the provisions of the Delhi Rent Act is not that the Slum Clearance Act stands impliedly repealed pro tanto. Bearing in mind the language of the two laws, their object and purpose, and the fact that one of them is later in point of time and was enacted with the knowledge of the non-obstante clauses in the earlier law we have come to the conclusion that the provisions of Section 14-A and Chapter III-A of the Rent Control Act must prevail over those contained in Sections 19 and 39 of the Slum Clearance Act."

31. Therefore, in view of the above position in law, it can safely be inferred that after coming into force of the Jharkhand Panchayati Raj and also having regard to objects and purpose of Part IX of the Constitution of India, the provisions of the Jharkhand Regional Development Authority Act, which are in conflict with the provisions of the Jharkhand Panchayati Raj Act must be held to be imply repealed and to the extent it is inconsistent with the provisions of Jharkhand Panchayati Raj Act.

The encroachment by the Jharkhand Regional Development Authority Act is not

incidental; rather is direct and therefore must yield to the provisions of the Jharkhand Panchayati Raj Act. In respect of a particular function, there can only be a single authority exercising the power. If under the Jharkhand Panchayati Raj Act and the Rules made under a procedure has been laid down for getting a sanction in respect of a proposed building to be constructed in an area falling under a Panchayat, then the provisions of the Jharkhand Regional Development Authority Act, especially chapter VI which also provides obtaining permission before land development is undertaken and also for the preparation of master plan cannot be given effect to and the conflict must be resolved by holding that the provisions of the Jharkhand Panchayati Raj Act would have primacy and therefore prevail.

32. Even in the State of Jharkhand after the coming to force of the Jharkhand Municipal Act, 2011, denuded Ranchi Regional Development Authority of its power to sanction building plans, and the entire area of sanctioning of building plans and maps has been handed over to the Municipal Corporation.

Similar interpretation has to be given to the Panchayat under the Jharkhand Panchayati Raj Act, else, the same shall do violence to the constitutional mandate and run contrary to the spirit of the 73rd Constitutional Amendment, the importance of which has been highlighted by the Supreme Court in the cases of Bondu Ramaswamy (supra) and Village Panchayat Calangute (supra).

33. One contention which was raised by the respondent is with respect to the areas being covered by the Master Plan of 2037. This Court is of the considered opinion that this issue should not detain the Court any further having regard to the discussion made above and has to be answered in against the Respondents for the simple reason that the master plan, unless authorised by the Panchayat or the authorities competent under Panchayati Raj Act must cease to exist in an area over which Jharkhand Panchayati Raj Act applies.

Reference may also be made to the provisions of Article 243ZD and Chapter XIII Jharkhand Panchayati Raj Act, which provides for District Planning Committee. Section 123

(ii) (d) provides that every committee shall in preparing the draft development plan, have regard to the integrated development of infrastructure and environment and its conservation, and therefore the plan is something which is akin to a master plan which is governed by the provisions of the Jharkhand Regional Development Authority Act.

34. In view of the above provisions, permitting the master plan prepared by the RRDA in exercise of powers under the Jharkhand Regional Development Authority act to operate, would in pith and substance authorise a legislation to operate which is deemed to have been repealed to the extent of it being inconsistent to Part IX and the legislations referable thereto.

35. In the light of the above discussion, it is concluded and held as follows:-

I. After coming into force of Jharkhand Panchayat Raj Act, 2001 with effect from 10 May 2001, the authorities under the Jharkhand Regional Development Authority Act such as the Ranchi Regional Development Authority, cannot be allowed to function with respect to an area governed and covered by the Jharkhand Panchayat Raj Act, and Part IX read with the 11th schedule of the Constitution of India and must be held to have been repealed to that extent.

II. As a result of the above, it is further held and declared that in an area governed by the Jharkhand Panchayat Raj Act, the Ranchi Regional Development Authority has no jurisdiction to sanction a building plan and there is no requirement of obtaining the permission of the authorities under section 30 of the Jharkhand Regional Development Authority Act from the authorities of the Ranchi Regional Development Authority.

III. The structures erected by the petitioner in village Sidroll without the permission of the Ranchi Regional Development Authority cannot be said to be an unlawful construction and the said building and its construction can only be regulated by the provisions of the Jharkhand Panchayat Raj Act, Rules framed thereunder and by the authorities authorised by such law and not by the officials of the Ranchi Regional Development Authority, who completely lack jurisdiction.

IV. Accordingly, it is held that the orders passed by the Vice Chairman, Ranchi Regional Development Authority, directing demolition and sealing of the petitioner's property is an order without jurisdiction and therefore illegal and unlawful and thus is liable to be quashed and set aside. Consequently, the appellate orders passed by the Appellate Tribunal are also set aside. Resultantly, the sealing of the property of the petitioner pursuant to the order passed by the Vice Chairman, RRDA is directed to be removed and the structure be unsealed.

V. It is made clear that the building constructed by the petitioner is subject to the provisions of the Jharkhand Panchayati Raj Act and Rules made thereunder as applicable from time to time.

It is therefore ordered as follows:

W.P.(C) No. 1592 of 2022

A. The order dated 19 January 2022 passed in U. .C Case No. 169/2021 by the Vice Chairman, RRDA, Ranchi is quashed and set aside.

B. The order dated 28.03.2022 passed by the Appellate Tribunal in Misc. Appeal Case No. 07 of 2022 rejecting the objection of the petitioner with respect to jurisdiction is set aside.

C. The order dated 28.03.2022 passed by the Appellate Tribunal in Misc. Appeal Case No. 07 of 2022 stands quashed.

D. The respondents are directed to unseal the property of the petitioner situated at village Sidroll, under Thana Namkum, Revenue Thana No.218 appertaining to Khata No. 27 being Plot Nos. 1145 and 1146, District Ranchi forthwith and

handover the same to the petitioner or her representatives without any delay.

E. So far as compensation is concerned no order is being passed in the present petition as alleged loss has to be computed on the basis of evidence, which may involve adjudication of complex questions of facts and hence if the petitioner so advised, she may institute a civil suit seeking compensation and damages from the authorities who have acted without jurisdiction and the court of competent jurisdiction may decide the same on the basis of the materials brought before it and in accordance with law.

F. However, having regard to the fact that the authorities have acted without jurisdiction, a token cost of ₹ 1000 is imposed, which is to be paid to the petitioner within a period of four weeks.

WPC No. 1595 of 2022

36. In view of the discussion made above, the instant writ petition being W.P.C No. 1595 of 2022 is allowed and disposed of in following terms:-

A. The order dated 19 January 2022 passed by the Vice Chairman, RRDA, Ranchi is quashed and set aside.

B. The order dated 28.03.2022 passed by the Appellate Tribunal in Misc. Appeal Case No. 06 of 2022 stands quashed.

C. The respondents are directed to unseal the property of the petitioner situated at Plot No 203/AA Khata No 182 being situated in village Barganwa, under Thana – Namkum, Revenue Thana No 216 District-Ranchi forthwith without any delay.

D. So far as compensation is concerned no order is being passed in the present petition as the computation of loss has to be computed on the basis of the evidence, which may involve adjudication of complex questions of facts and hence if the petitioner so advised, he may institute a civil suit, seeking compensation and damages from the authorities who have acted without jurisdiction and the court of competent jurisdiction may decide the same on the base of the materials brought before it.

E. However, having regard to the fact that the authorities have acted without jurisdiction, a token cost of ₹ 1000 is imposed which is to be paid to the petitioner within a period of four weeks.

W.P.C No. 4678 of 2023

37. In view of the discussion made above, the instant writ petition is allowed and disposed of in following terms:-

A. The order dated 15 December 2022 passed by the Vice Chairman, RRDA, Ranchi in U.C Case No. 32 of 2021 is quashed and set aside.

B. The order dated 07.06.2023 passed by the Appellate Tribunal in Misc. Appeal Case No. 04 of 2023 stands quashed.

C. However, having regard to the fact that the authorities have acted without jurisdiction, a token cost of ₹ 1000 is imposed which is to be paid to the petitioner within a period of four weeks.

W.P.C No. 6039 of 2023

38. In view of the discussion made above, the instant writ petition is allowed and disposed of in the following terms: -

A. The order dated 15 December 2022 passed by the Vice Chairman, RRDA, Ranchi in U.C Case No. 32 of 2021 is quashed and set aside.

B. The order dated 07.06.2023 passed by the Appellate Tribunal in Misc. Appeal Case No. 04 of 2023 stands quashed.

C. However, having regard to the fact that the authorities have acted without jurisdiction, a token cost of ₹ 1000 is imposed which is to be paid to the petitioner within a period of four weeks.

39. In view of the findings given hereinabove, the instant writ petition stands disposed of with the liberty to the petitioner to proceed in accordance with law by making proper application for the approval and sanction of the school building situated at Mouza Bukru, District Ranchi before the appropriate authority.

40. Pending I.A., if any also stands disposed of.