

(2002) 04 PAT CK 0090
In the Patna High Court
Case No : L.P.A. No's. 753 and 938 of 2001

The Bihar State Housing Board and Another	APPELLANT
Vs	
The State of Jharkhand and Others Jharkhand State Housing Board and Others Vs The Bihar State Housing Board and Others	RESPONDENT

Date of Decision : 05-04-2002

Acts Referred:

Bihar Reorganisation Act, 2000 — Section 65, 66

Citation : (2002) 2 PLJR 480

Hon'ble Judges : Ravi S. Dhavan, C.J.; Shashank Kr. Singh, J

Bench : Division Bench

Advocate : Shravan Kumar and Rajiv Nayan Singh, for the Appellant; Umesh Pd. Singh, Rajiv Ranjan Pd. for Jharkhand State Housing Board, R.K. Dutta, for State of Bihar, Tara Kant Jha and Yugal Kishore for Jharkhand State and P.K. Shahi, for Union of India, for the Respondent

Judgement

Ravi S. Dhavan, C.J.—The prayer on behalf of both the Appellants (Bihar State Housing Board and the Jharkhand State Housing Board) is, in effect, to set aside the order dated 30 July 2001. This order was passed on C.W.J.C. No. 8735 of 2001: (Bihar State Housing Board and Anr. v. The State of Jharkhand and Ors.)

2. The bifurcation of the State of Bihar under the Bihar Reorganisation Act, 2000 also affected State statutory corporations and State public sector undertakings. One of them is the Bihar State Housing Board, a statutory corporation. It was incorporated by the enactment, the Bihar State Housing Board Act, 1982. This Corporation has had activities spread all over Bihar. Public housing is one of its main functions. Consequently, it is possessed of real estate, land or developed housing or at the time of bifurcation semi developed. The registered office of this statutory Corporation is situate in Patna. Thus, when the State of Bihar was bifurcated it was a necessary corollary that this statutory Corporation was given the status of "an inter-state body Corporate" (Section 66). Bihar State Housing Corporation, amongst other statutory or Government companies, is mentioned in

the Ninth Schedule to the Act, at item No. 25.

3. Thus, the capacity of this Corporation to function in the State of Jharkhand is prescribed by law "until other provision is made by law in respect of the said body Corporate" (Section 66). Consequently, the law mandated, to be noted at the expense of repetition, that the Bihar State Housing Board be an inter State body corporate with its registered office at Patna, Bihar. The Central Government may, in the meantime issue such directions for the functioning and operation of such a body corporate in respect of which it was functioning and operating before the appointed day of bifurcation.

4. The division of assets and liabilities, personnel not excluded, is engaging the attention of the Central Government, Reconstitution of the Board of Directors may also be considered (Section 65).

5. The division of assets and liabilities cannot happen instantly. This will take time and the representatives of this Corporation and the representatives of the successor State are already in a dialogue with the Central Government. In the circumstances, the spirit of the order, dated 30, July 2001, in effect requiring parties to maintain status quo and not alienate the assets of the Corporation is an equitable order. The Jharkhand State Housing Board has also been permitted to "collect the rents etc. and keep a separate account therefore so that there may not be any dispute at the time of final decision of the matter by the Central Government." This is also an equitable direction.

6. The Court cannot permit what the law does not permit. The directions on the finality of the division of assets and liabilities has been left to the Central Government. There is no restraint on any party approaching the Central Government.

7. But on behalf of the Jharkhand State Housing Board, it was contended that while matters may be pending before the Central Government, certain circumstances are causing concern and, third parties are taking advantage of the inter-regnum period. Instances were not cited but the generality was submitted upon. It was contended, (1) unauthorised occupation is apprehended on unoccupied and unallotted housing, (2) loss of damages from such unauthorised occupation, (3) regular allottees, even prior to the date of bifurcation of the State, may stop depositing either rent or the instalments against hire purchase agreements. It was contended that the payment of rent and instalments against hire purchase agreements would lessen the loan which Bihar State Housing Board may have taken from public finance institutions and in case this liability is to be shared by the Jharkhand State Housing Board, lessen the load on this Corporation also.

8. If there are specific instances, these matters should be brought to the notice of the Central Government as provided under the Bihar Reorganisation Act, 2000, so that the latter may issue necessary directions as the circumstances so warrant.

9. In the meantime, if there be situations within the territory of the successor State as contended then steps be taken out jointly: (i) to evict unauthorised occupants under the law which applies to such offenders, (2) recover damages from such unauthorised occupants, (3) as already indicated in the order of 30 July 2001, on the writ petition, the rent and or the instalments on the hire purchase agreement be collected by the Jharkhand State Housing Board and deposited in a separate account, but joint account, under intimation to the Bihar State Housing Board and (4) of any fresh allotments to be made on any completed project or otherwise, as this would create third party interests direction may be sought by the Jharkhand State Housing Board, from the Central Government, under prior intimation to the Bihar State Housing Board.

Shashank Kr. Singh, J.

10. I agree.