

(1969) 04 GUJ CK 0002
In the Gujarat High Court

Village Panchayat Jaspur

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 29-04-1969

Acts Referred:

Bombay Village Panchayats Act, 1933 — Section 28B

Gujarat Panchayats Act, 1961 — Section 325(2)(vi), 96(4), 96(4)

Citation : (1970) 11 GLR 695

Hon'ble Judges : P.N. Bhagwati, C.J;N.K. Vakil, J

Bench : Division Bench

Judgement

P.N. Bhagwati, C.J.—These two petitions raise a short question as to the validity of Section 96 Sub-section (4) of the Gujarat Panchayats Act, 1961 (hereinafter called the Act of 1961). The petitioner in Special Civil Application No. 1596 of 1968 is the Jaspur Gram Panchayat while the petitioner in Special Civil Application No. 363 of 1969 is the Khodiyar Gram Panchayat. Both these gram panchayats are bodies corporate constituted under the Act of 1961 for the respective grams of Jaspur and Khodiyar. Though Jaspur and Khodiyar are situated in different revenue districts, they adjoin each other and have part of their boundary common. It was common ground between the parties that Survey No. 391 which constitutes grazing land in village Jaspur was originally Government land and it was vested by Government in Jaspur Village Panchayat as then constituted sometime in June 1950 u/s 28B of the Bombay Village Panchayats Act, 1933 (hereinafter referred to as the Act of 1933) and so also Survey Nos. 255, 258 and 265 which constitute grazing lands in village Khodiyar and which were originally Government lands were vested by Government in Khodiyar Village Panchayat as then constituted sometime in 1958 under the same section of the Act of 1933. The vesting of grazing land being Survey No. 391 in village Jaspur was subject to four conditions as set out in the Circular dated 9th June 1950 issued by the then Government of Bombay and since none of these conditions is material for the purpose of the present petitions, we need not refer to them. So far as grazing lands being Survey Nos. 255, 258, 260 and

265 in village Khodiyar are concerned, the vesting of these grazing lands was also subject to the same four conditions as set out in the circular dated 9th June 1950, but there was also an additional condition as set out in Clause 9 introduced in the circular dated 9th June 1950 by a resolution of the Government dated 19th September 1957 and that additional condition was that the said grazing lands shall be liable to be resumed by the Government at any time without payment of compensation. These grazing lands which were vested in Jaspur and Khodiyar Village Panchayats as aforesaid continued to be used as grazing lands and it was an accepted position that no breach of any condition of vesting was committed by either of the two Panchayats. The Act of 1933 was repealed by Section 185 of the Act of 1958 but by reason of the saving provision enacted in Section 186, the old Panchayats of Jaspur and Khodiyar constituted under the Act of 1933 were deemed to be the new Panchayats of Jaspur and Khodiyar constituted under the Act of 1958 and these grazing lands vesting in the old Village Panchayats of Jaspur and Khodiyar became vested in the new panchayats of Jaspur and Khodiyar from the date of coming into force of the Act of 1958. The respective Panchayats of Jaspur and Khodiyar constituted under the Act of 1958 thereafter continued to use the grazing lands vested in them for the purpose of grazing of cattle and again it was common ground that no breach of any of the conditions of vesting was committed by them. The Act of 1958 was then repealed by the Act of 1961 but by reason of Clause (ii) of Sub-section (2) of Section 325 of the Act of 1961, the village panchayats of Jaspur and Khodiyar constituted under the Act of 1958 immediately before the date of coming into force of the Act of 1961 were deemed to be the new Gram Panchayats of Jaspur and Khodiyar and the grazing lands vesting in the old village panchayats of Jaspur and Khodiyar became, from the said date, vested in the new gram panchayats of Jaspur and Khodiyar, that is, the petitioners in the present petitions under Clause (vi) of Sub-section (2) of Section 325. The petitioners continued the use of these grazing lands for the purpose of grazing cattle and complied with all the conditions on which these grazing lands were originally vested by the Government.

2. Now it appears that the State Government wanted some land for the purpose of putting up sewage treatment plant for the new capital of Gandhinagar which it was setting up in Gandhinagar District. The "State Government originally thought of setting up the sewage treatment plant on lands situate in villages of Ognaj, Chharodi, Jagatpur and Gota in Daskroi Taluka, Ahmedabad District and with that end in view, the State Government issued a notification dated 5th April 1967 u/s 4 of the Land Acquisition Act, 1894, stating that certain lands situate in these four villages specified in the Schedule to the said notification were needed for a public purpose, namely, Gandhinagar Sewage Treatment Plant. It does not appear from the record nor is it material whether any objections against the proposed acquisition of their lands were lodged by the owners of the lands but after the necessary inquiries, the State Government ultimately issued a notification dated 17th January 1968 u/s 6 of the Land Acquisition Act, 1894,

declaring that diverse lands specified in the Schedule to the said notification were needed for the public purpose specified in column 4 of the Schedule, namely Gandhinagar Sewage Treatment Plant. This notification also contained a direction of the State Government u/s 17 Sub-section (1) that the Collector shall on expiry of fifteen days from the publication of the notice u/s 9 Sub-section (1) take possession of all the lands specified in the notification. It may be mentioned that the lands specified in the Schedule to this notification comprised lands only in the villages of Ognaj and Chharodi and so far as lands in the villages of Jagatpur and Gota were concerned, though they were originally specified in the notification u/s 4, they were ultimately dropped from acquisition under this notification.

3. Before possession of the lands in villages Ognaj and Chharodi was taken pursuant to the direction u/s 17 Sub-section (1) contained in the notification u/s 6, the decision to locate the sewage treatment plant in those lands was changed and it was decided to set it up in what may for the sake of convenience be called Jaspur-Khodiya site. The Deputy Engineer in charge of the Capital Project addressed a letter dated 4th April 1968 to the Talati-cum-Mantri of village Jaspur requesting him to supply the extracts from the record of rights in respect of several survey numbers of village Jaspur as the same were required for acquisition of lands for the Gandhinagar Project. Out of these survey numbers, survey No. 391 was grazing land vested in the Jaspur Gram Panchayat while the other survey numbers belonged to private agriculturists. On receipt of the extracts from the record of rights a decision was taken by the State Government to resume survey No. 391 of village Jaspur u/s 96 Sub-section (4) of the Act of 1961 and accordingly an order dated 27th May 1968 was made by the State Government u/s 96 Sub-section (4) resuming survey No. 391 of village Jaspur as the same was needed for a public purpose, namely, Gandhinagar Project Sewage Treatment Plant. When this order was made, there was considerable agitation in Mehsana District in which village Jaspur is situate and several representations were made and resolutions passed protesting against the decision to change the location of the sewage treatment plant from villages of Ognaj and Chharodi to village Jaspur. These representations and resolutions led to a visit by Mr. B.J. Patel, Minister for Public Works Department, to village Jaspur. He met the members of Jaspur Gram Panchayat and other representatives and listened to the representations which they had to make against the location of the sewage treatment plant in the lands situate in village Jaspur. But even after taking into account these representations the State Government adhered to the decision taken by it to resume survey No. 391 of village Jaspur for setting up the sewage treatment plant and decided to proceed further in the matter. The Jaspur Village Panchayat thereupon preferred Special Civil Application No. 1596 of 1968 challenging the validity of the order of resumption made by the State Government. In the meantime, the State Government also by an order dated 17th December 1968, resumed survey Nos. 255, 258, 260 and 265 of village Khodiya for the purpose of Gandhinagar Capital Project Sewage Treatment Plant u/s 96 Sub-section (4) of the Act of 1961 and this led to the filing of Special Civil

Application No. 363 of 1969 by the Khodiyar Gram Panchayat.

4. There were in the main two grounds on which the validity of the impugned orders of resumption was challenged on behalf of the petitioners and they were:

(A). Section 96 Sub-section (4) under which the impugned orders of resumption were made is violative of Article 31(2) of the Constitution inasmuch as it provides for acquisition of proprietary interest of a Gram Panchayat in site or waste, vacant or grazing land vested by Government in a panchayat before the commencement of the Act of 1961, without payment of compensation.

(B). The impugned orders of resumption were made by the State Government mala fide in order to oblige the land-holders of Ognaj and Chharodi and were therefore bad and liable to be set aside.

We shall examine these grounds in the order in which we have set them out above.

5. Re. Ground (A): As pointed out above, it was common ground between the parties that the grazing lands sought to be resumed by the Government under the impugned orders of resumption were originally Government lands, that is, lands vesting in Government, and they were vested by Government in the respective village panchayats of Jaspur and Khodiyar u/s 28B of the Act of 1933. Now the essential postulate of the argument of the petitioner under this head of challenge was that when Government vested these grazing lands in the respective village panchayats of Jaspur and Khodiyar u/s 28B of the Act of 1933, proprietary interest in the grazing lands was transferred to the Jaspur and Khodiyar Village Panchayats, for otherwise no question of acquisition could possibly arise u/s 36 Sub-section (4) and the validity of that sub-section not be assailed on the ground that it provides for acquisition without payment of compensation. Considerable debate therefore took place before us as to the true meaning and effect of the word "vest" in Section 28B of the Act of 1933. That section in so far as is material ran as follows:

28B. (1) For the purposes of this Chapter, the State Government may, subject to such conditions and restrictions as it may think fit to impose, vest in a panchayat open sites, waste, vacant or grazing lands or public roads and streets, wells, riverbeds, tanks, trees or any other property in the village vesting in the Government.

The contention of the petitioner was that the word "vest" in the context in which it occurred and particularly having regard to Sections 29, 30, 31(1)(i) and 32 of the Act of 1933 clearly connoted transfer of proprietary interest and when Government vested the grazing lands in the Jaspur and Khodiyar Village Panchayats u/s 28B, there was transfer of proprietary interest in the grazing lands to the two respective panchayats. The respondents on the other hand urged that the opening words of Section 28B, namely "For the purposes of this Chapter" suggested that the vesting contemplated under that section was for a

limited purpose and what was therefore vested in the Jaspur and Khodiyar Village Panchayats was not any proprietary interest in the grazing lands but mere right to obtain and deal with the grazing lands for the purpose of discharging the functions and duties laid upon them under the Act of 1933. These rival contentions raised an interesting question as to the proper meaning to be given to the word "vest" in Section 28B. The word "vest" as is now well-known, has a variety of significations depending on the context in which it is used. It may mean transfer of proprietary interest in the land or it may mean transfer of the right to possession of the land or the right to obtain and deal with the land. To illustrate, the word "vest" in Section 17 of the Land Acquisition Act, 1894, is used in the sense of transferring proprietary interest in the land while the same word in Section 56 of the Provincial Insolvency Act, 1920 or in Section 134 of the English Lunacy Act, 1890, is used to denote transference of the right to obtain and deal with the property of the insolvent or the lunatic, as the case may be, without being actual owner of it. The question is what is the sense in which this word was used in Section 28B of the Act of 1933? Prime facie it would seem that the argument of the petitioners was well founded and the word "vest" was used in Section 28B to denote transfer of proprietary interest and not transfer of mere right to obtain and deal with the property. But we do not think it necessary to express any definite opinion on this point because we are of the view that even if vesting contemplated in Section 28B involved transfer of proprietary interest as claimed by the petitioners and proprietary interest in the grazing lands was consequently transferred by the Government to the respective village panchayats of Jaspur and Khodiyar, the resumption of the grazing lands by the Government u/s 96 Sub-section (4) did not involve acquisition of property belonging to the petitioners and Section 96 Sub-section (4) did not, therefore, offend Article 31(2) of the Constitution.

6. The grazing lands were vested in the village panchayats of Jaspur and Khodiyar as constituted under the Act of 1933 and they continued to be used by the two respective panchayats as grazing lands in accordance with the conditions imposed by the Government at the time of vesting. The Act of 1933 was repealed by Section 185 of the Act of 1958 and Section 186 of the Act of 1958 provided that the panchayats constituted under the Act of 1933 immediately before the date of coming into force of the Act of 1958 shall be deemed to be panchayats of the respective villages and all the properties vesting in the old panchayats shall from the said date vest in the new panchayats. The old panchayats of Jaspur and Khodiyar constituted under the Act of 1933 immediately before the coming into force of the Act of 1958 were, therefore, deemed to be the new panchayats of Jaspur and Khodiyar constituted under the Act of 1958 and the grazing lands vesting in the old panchayats of Jaspur and Khodiyar became vested in the new panchayats of Jaspur and Khodiyar. The new panchayats of Jaspur and Khodiyar constituted under the Act of 1958 continued to use the grazing lands for the purpose of grazing of cattle subject to the conditions on which they were vested by the Government. Then came the Act of 1961 which by Section 325 Sub-

section (1) repealed the Act of 1958. The repeal of the Act of 1958 would naturally bring to an end the village panchayats constituted under the Act of 1958 and new gram panchayats would have to be constituted under the Act of 1961. This would necessarily take a certain amount of time causing a hiatus in the continuity of local self Government. The Legislature, therefore, provided in Section 325 Sub-section (2) Clause (ii) that:

325. (2) Notwithstanding the repeal of the said Act--

xxx xxx xxx xxx xxx (ii) the panchayats constituted under the said Act immediately before the said date (hereinafter called "the old village panchayat") shall be deemed to be panchayats of the respective grams (hereinafter called "the new gram panchayats");

Now since the old village panchayats constituted under the Act of 1958 would cease to exist as such by reason of the repeal of the Act of 1958, some provision had to be made by the Legislature in regard to the properties vested in those village panchayats. The Legislature could have provided that the properties vesting in the old village panchayats constituted under the Act of 1958 shall come back to the Government or the Legislature could have made any other provision which it thought fit in that regard. But since the continuity of local-self Government was to be preserved and new gram panchayats constituted or deemed to be constituted under the Act of 1961 had to be provided the means to function effectively the Legislature provided in Section 325 Sub-section (2) Clause (vi):

325.(2) Notwithstanding the repeal of the said Act--

(vi) all the properties... vesting in the old village panchayats shall from the said date vest in the new gram panchayats...

The Legislature thus vested in the new gram panchayats constituted or deemed to be constituted under the Act of 1961 the properties which were vested in the old village panchayats constituted under the Act of 1958. But while doing so, the Legislature hastened to add in Section 96 Sub-section (4) a rider to the following effect:

96. (4) Where any open site or waste, vacant or grazing land vesting in Government has been vested by Government in a panchayat whether before or after the commencement of this Act, then it shall be lawful for the State Government to resume at any time such site or land, if it is required by it for any public purpose:

Reading Section 325 Sub-section (2) Clause (vi) and Section 96 Sub-section (4) together, it is clear that the vesting of the properties in the new gram panchayat u/s 325 Sub-section (2) Clause (vi) was subject to the condition that in case any such property was open site or waste, vacant or grazing land originally vesting in Government but subsequently vested by Government in a panchayat whether constituted under the Act of 1933 or under the Act of 1958, the Government

shall be entitled to resume it at any time, if it was required by it for any public purpose. It was, if we may say so, a term of vesting of such property in the new gram panchayat u/s 325 Sub-section (2) Clause (vi) that it shall be liable to be resumed by the State Government at any time if the State Government required it for any public purpose. The grazing lands vesting in the old village panchayats of Jaspur and Khodiyar constituted under the Act of 1958, therefore, became vested in the new gram panchayats of Jaspur and Khodiyar constituted under the Act of 1961 namely, the petitioners in the present petitions u/s 325 Sub-section (2) Clause (vi) subject to the term or condition that the State Government should be entitled to resume them at any time u/s 96 Sub-section (4) if it required them for any public purpose. If this be the true position, it is difficult to see how the resumption of the grazing lands by the Government under the impugned orders of resumption could be regarded as acquisition of the proprietary interest of the Jaspur and Khodiyar Gram Panchayats. Where a grant of land is resumed by the Government in accordance with the terms of the grant, it would be a case of resumption simpliciter and it would not amount to acquisition. Acquisition postulates taking over of proprietary interest de hors the terms of the grant: it is "resumption" not in enforcement of the right given to the Government by the terms of the grant or by the legislation which makes the grant but in exercise of the sovereign right of eminent domain possessed by the State. Where, as in the present case, resumption is made in accordance with the terms of the grant or the law under which the grant is made, it is not acquisition but resumption pure and simple. This conclusion would appear to be clear and irresistible on principle and no authority is necessary to support it but if any authority were needed, it is to be found in the decision of the Supreme Court in *Thakur Amar Singhji Vs. State of Rajasthan*, . Vide the observations of Venkatarama Ayyar J. in paragraphs 25, 26 and 27 at page 519 of the Report. The attack against the validity of Section 96 Sub-section (4) on the ground that it provides for acquisition without payment of compensation must, therefore, fail.

7. Re: Ground (B): That takes us to the next ground of attack, namely, that the impugned orders of resumption were made by the Government mala fide. Now when we look at the petitions it is difficult to understand what exactly the petitioners mean when they say that the impugned orders of resumption are vitiated by mala fides. It is not their case in the petitions nor even in the affidavits-in-rejoinder that the purpose for which the grazing lands were sought to be resumed by the Government, namely construction of Sewage Treatment Plant of Gandhinagar Capital Project did not exist or that there was a collateral purpose for which the grazing lands were resumed by the Government and the purpose of Sewage Treatment Plant shown in the impugned orders of resumption was a mere camouflage. It was also not the case of the petitioners in the pleadings nor even at the hearing of the petitions before us that the grazing lands sought to be resumed by the Government were not fit or suitable for the purpose of putting up the Sewage Treatment Plant. The only ground on which the allegation of mala fides was founded was that the Government had originally

decided to locate the Sewage Treatment Plant in Ognaj and Chharodi and had actually proceeded up to the stage of issue of Section 6 notification for the purpose of acquiring lands in Ognaj and Chharodi for putting up the Sewage Treatment Plant but all of a sudden the decision to locate the Sewage Treatment Plant in Ognaj and Chharodi was changed in the Capital Project Office and it was decided to locate the Sewage Treatment Plant in Jaspur and Khodiyar. This sudden change of decision after "proposals for acquisition were already made and necessary notifications u/s 6 were also issued" in respect of lands situate in Ognaj and Chharodi, said the petitioners, clearly and irresistibly led to the inference that there was some manoeuvre-ing in the Capital Project Office the Capital Project Office was influenced by interested parties to change its decision and it was only as a result of the manoeuvring that the Capital Project Office changed its decision and approached the Government to facilitate its design to obtain the grazing lands of Jaspur and Khodiyar gram panchayats. The petitioners alleged that "the Act of the Government of Gujarat in submitting to the illegal, improper and dishonest demand of the Capital Project authority i e., the Executive Engineer, Capital Project is mala fide act as the Executive Engineer, Capital Project has acted with ulterior motives and acted mala fide in shifting its ground as regards Sewage Treatment Plant intentionally and further he has also invoked the authority of Government and has prevailed upon the Government to resolve for resumption of the grazing land of village Jaspur. "Vide paragraph 22 of the petition in Special Civil Application No. 1596 of 1968. Now if we closely scrutinize these allegations it is apparent that the only complaint of mala fides against the Government was that the Government submitted to the illegal, improper and dishonest demand of the Capital Project Office to change the location of the Sewage Treatment plant from Ognaj and Chharodi to Jaspur and Khodiyar. It was not alleged in the petitions nor even in the affidavits-in-rejoinder that the Government was improperly prevailed upon by interested persons to change the decision in regard to location of the Sewage Treatment Plant. The gravamen of the attack in the petitions was against the Capital Project Office. The bona fides of the decision of the Capital Project Office to change the location of the Sewage Treatment Plant were challenged in the petitions and it was alleged that the Executive Engineer, Capital Project Office, acted with ulterior motives though it was nowhere clearly stated what those ulterior motives were so far as the people of Jaspur and Khodiyar were concerned. Now the impugned orders of resumption were made by the Government and not by the Capital Project Office, and, therefore, unless it is established by the petitioners that the Government acted mala fide in making the impugned orders of resumption, the impugned orders of resumption cannot be held to be bad. The allegation against the Government was that the Government submitted to the illegal, improper and dishonest demand of the Capital Project Office. It may be noted that it was not even alleged in the petitions that the Govt, submitted to the illegal improper and dishonest demand of the Capital Project Office with knowledge that the Capital Project Office was actuated by ulterior motives or that the Government knew that the decision to shift the location of the Sewage Treatment Plant was taken

by the Capital Project Office for the purpose of favouring the landholders of Ognaj and Chharodi. It is quite possible that the Government might have accepted the decision of the Capital Project Office to shift the location of the Sewage Treatment Plant bona fide on the basis of facts and circumstances placed before it by the Capital Project Office. A mere allegation that the Government submitted to the illegal, improper and dishonest demand of the Capital Project Office cannot, therefore be regarded as sufficient to impute mala fides to the Government.

8. This would be sufficient to dispose of the ground of mala fides but we find that even the allegations made against the Capital Project Office are wholly inadequate to make out a case of mala fides. The only circumstance on which reliance has been placed on behalf of the petitioners in the petition is the sudden change of decision in regard to location of the sewage treatment plant. But, merely because the decision to locate the Sewage Treatment Plant in Ognaj and Chharodi was changed at, what the learned counsel for the petitioners called, the "last moment", it does not necessarily follow that the change in decision was mala fide. The decision might have been changed for various legitimate reasons consistent with bona fides on the part of the Capital Project Office and the Govt. It might have been felt by the Capital Project Office and the Government that instead of acquiring lands of agriculturists for the purpose of locating the Sewage Treatment Plant in Ognaj and Chharodi, it would be desirable to resume grazing lands in Jaspur and Khodiyar as that would eliminate or at least reduce to a large extent hardship to the agriculturists. The Capital Project Office and the Government might have taken the view that it would be more economical to have the Sewage Treatment Plant at Jaspur and Khodiyar rather than at Ognaj and Chharodi. There might be any number of proper and legitimate reasons for which the Capital Project Office and the Government might have bona fide taken the view that the decision to locate the Sewage Treatment Plant at Ognaj and Chharodi should be changed. The sudden change in the decision even at the "last moment" does not necessarily lead to the inference that the change was made by the Capital Project Office or the Govt, mala fide.

9. Even the allegation that the change in the decision was made in order to favour the land-holders of Ognaj is vague and indefinite. There is up reason suggested as to why the Capital Project Office or the Govt, should have gone out of its way to favour the land-holders of Ognaj. We do not find anything in the petitions beyond a bare allegation and this allegation is controverted by the respondents in the affidavits-in-reply in answer to the petitions. It may also be noted that when the orders of resumption were passed, there was considerable agitation in the Mehsana District and as a result of that agitation Mr. B.J. Patel, Minister for Public Works Department went to Jaspur and heard the members of the Jaspur Village Panchayat and other representatives on 26th July 1968. But even after hearing them, the Government adhered to the decision taken earlier to locate the Sewage Treatment Plant in Jaspur and Khodiyar. Now there is nothing to suggest that Mr. B.J. Patel was in any way interested in the

landholders of Ognaj. There is not even an allegation that he was moved by a desire to favour the landholders of Ognaj. This would clearly show that it was after mature and deliberate consideration of all the facts and circumstances that the Government took the decision to shift the location of the Sewage Treatment Plant from Ognaj and Chharodi to Jaspur and Khodiyar and it was not as if the Government blindly submitted to the suggestion made by the Capital Project Office.

10. As a matter of fact we find that in the, affidavits-in-reply reasons have been given by the Government as to why it was decided to shift the location of the Sewage Treatment Plant from Ognaj and Chharodi to Jaspur and Khodiyar. M.D. Patel, Chief Engineer, Capital Project, who is respondent No. 4 before us, states in paragraph 13 of the affidavit filed by him in reply to Special Civil Application No. 1596 of 1968:

I say that a larger area of Government land is available at Jaspur-Khodiyar site than at the originally proposed site of Ognaj. Moreover, Ognaj site lands are better and more suitable for carrying on agriculture operation and cultivation other than lands at Jaspur and Khodiyar. I further say that the effect of shifting the site of the Sewage Treatment Plant to the land near Jaspur is that the length of the by-pass channel is increased by two miles and there is a corresponding reduction in the length of the out-fall sewer by about 1 3/4 miles. This would incidentally mean, a total saving in cost of approximately one lakh of rupees.

These reasons are repeated by C.B. Pandey, Deputy Secretary to Government, Public Works Department, in the affidavit-in-reply filed by him. He says in paragraph 11 of his affidavit:

I say that the decision to change the site was taken as the lands at village Ognaj etc. were comparatively better and useful for agricultural use and were private lands. I further say that the lands at Jaspur were the lands of the Government itself and were waste lands. I say that the private lands which were to be acquired for the purpose of Sewage Treatment Plant were also of inferior quality. I say that in locating the Sewage Treatment Plant at Jaspur lands required for the purpose which belonged to private persons were less in area than lands of the private owners at village Ognaj, etc.

11. The validity of these reasons could not be assailed on behalf of the petitioners but the only grievance which they made was that these reasons were too vague and they were not supported by the Government by placing any facts before the Court. But this grievance is wholly unfounded. It seeks to place on the Govt, a burden which does not properly lie upon it. The petitioners did not make any specific allegations of mala fides in the petition but merely relied on the sudden change of decision and the Government, therefore, broadly gave the reasons which prompted it to change the decision. The burden of proving mala fides being on the petitioners, it was for the petitioners to show that these reasons given by the Government were false and the Government was in fact

actuated by a desire to favour the landholders of Ognaj in changing its decision in regard to location of the Sewage Treatment Plant. But the petitioners did not even attempt to do so in the affidavits-in-rejoinder filed by them. The ground of mala fides cannot there-fore be sustained and must be rejected.

12. These were the only two grounds urged in support of the petitions and Se there is no substance in them, the petitions fail and the Rule issued in each of the petitions will stand discharged with costs.