

**(2006) 08 JH CK 0063**

**Jharkhand High Court**

**Case No:** CWJC No"s. 61, 85 and 1389 of 1998 (R)

Lal Brajeshwar Nath Shahdeo,  
Santosh Mahto and Nepal Baitha

APPELLANT

Vs

State of Bihar (Now Jharkhand)  
and Others

RESPONDENT

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**Date of Decision:** Aug. 14, 2006

**Acts Referred:**

- Land Acquisition Act, 1894 - Section 16

**Citation:** (2006) 4 JCR 428

**Hon'ble Judges:** R.K. Merathia, J

**Bench:** Single Bench

**Advocate:** A.K. Das, for the Appellant; H.K. Mehta, G.A. in CWJC Nos. 61 and 1389 of 1998 (R) and Rita Kumari, JC to SC I in CWJC No. 85 of 1998 (R) for Respondent Nos. 1 to 4 and R. Mukhopadhyay, for the Respondent

**Final Decision:** Dismissed

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**Judgement**

R.K. Merathia, J.

All the three writ petitions were heard together as they involved common question of facts and law. The parties agreed to consider one or other affidavit filed in one or other case for disposal of these writ petitions.

2. The petitioners have prayed for a direction upon the respondents to take a decision for release of unutilised lands (surplus lands) mentioned in the letter dated 13.7.1993 written by the Additional Collector. Ranchi to the District Land Acquisition Officer, Ranchi in terms of the policy decision of the State of Bihar and for other reliefs.

3. According to the petitioners, though the lands were acquired in 1960 but the lands in question have not been used by the Heavy Engineering Corporation (H.E.C. for short). Therefore, it is submitted that the lands may be returned to them in view

of the policy of the State of Bihar contained in letter dated 12.1.1979 (Annexure 6). The petitioners further rely on some letters of the Deputy Commissioner and the District Land Acquisition Officer, Ranchi to show that H.E.C. has surplus lands.

4. The H.E.C. has disputed the correctness and validity of the said letters. H.E.C. has further said that the vacant lands are being used for allied purposes for generating funds towards working capital as per the package approved by the Board of Industrial and Financial Reconstruction. Learned Counsel appearing for H.E.C. submitted that H.E.C. is one of the nation's pride and is mother of industries; and every body should wish and try that it revives and runs.

5. Mr. H.K. Mehta, learned Government Advocate appearing for the State of Jharkhand submitted that the policy of the State of Bihar has got no statutory force and thus such policy and the letters of District Officers will not give right to the petitioners to get back the land. He further submitted that the acquisition proceedings were complete way back in the year 1959-1960 and the petitioners have not said that compensation was not paid to them or possession of the lands was not taken. He, therefore, submitted that the lands in question cannot be returned to the petitioners, even if H.E.C. is not using them. He further submitted that the State Government is also considering as to how the surplus lands, if any, can be used. He submitted that when certain policy of the State Government was relied for restoration of land; it was held by Supreme Court in the case of [Govt. of A.P. and Another Vs. Syed Akbar](#), that any executive order, inconsistent with the provisions of the Land Acquisition Act is invalid. He relied on paragraph 14 of the said judgment which reads as follows:

From the position of law made clear in the aforementioned decisions, it follows that (1) u/s 16 of the Land Acquisition Act (for short "the Act") the land acquired vests in the Government absolutely free from all encumbrances; (2) the land acquired for a public purpose could be utilised for any other public purpose; and (3) the acquired land which is vested in the Government free from all encumbrances cannot be reassigned or reconveyed to the original owner merely on the basis of an executive order.

6. In my opinion, no relief can be granted to the petitioners. They could not show under what provision of law, the purported circular/policy decision of the Government of Bihar, was issued. They also could not show how they derive right of restoration of land on the basis of the letters of the District Officers, especially when they are denied and disputed by H.E.C. Such circular/policy/letters relied by the petitioners are clearly inconsistent with the provisions of the Land Acquisition Act. Moreover, the petitioners could not prove that H.E.C. has got surplus land. Even if some lands have not been used, it cannot be said that they are surplus. In my opinion, this case is fully covered by the judgment of Government of A.P. (supra).

7. Accordingly, these writ petitions are dismissed. However, no costs.