
(2012) 04 AP CK 0092

Andhra Pradesh High Court

Case No: Writ Petition No. 17651 of 2007

I. Praveen Reddy and
Others

APPELLANT

Vs

State of Andhra
Pradesh and Others

RESPONDENT

Date of Decision: April 17, 2012

Acts Referred:

- Andhra Pradesh Urban Areas (Development) Act, 1975 - Section 12(2)
- Land Acquisition Act, 1894 - Section 17(4), 4, 4(1), 48, 5A

Citation: (2012) 5 ALD 206 : (2012) 5 ALT 774

Hon'ble Judges: L. Narasimha Reddy, J

Bench: Single Bench

Advocate: Raghuveer Reddy, Government Pleader, for the Appellant; K.V. Simhadri, A.V. Sivaiah and V.T.M. Prasad, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

L. Narasimha Reddy, J.

In this batch of writ petitions, the proceedings initiated under the Land Acquisition Act, 1894 (for short "the Act") for acquisition of land in different survey numbers of Vattinagulapally Village, Rajendranagar Mandal, Ranga Reddy District are challenged. The notification u/s 4(1) of the Act was published on 16.3.2005. It was mentioned that the land is needed for the public purpose of establishment of IT Park and other related projects by the A.P. Industrial Infrastructure Corporation Limited (for short "the Corporation"). In the course of enquiry u/s 5-A of the Act, objection was raised to the acquisition on several grounds. The principal ground urged by the petitioners was that the Government of A.P. in the Municipal Administration Department issued G.O. Ms. No. 111 dated 8.3.1996 in respect of the catchment area of Osmansagar and Himayatsagar Lakes, prohibiting development of any kind whatever within the radius of 10 kilo meters

from the said lakes. It was urged that Vattinagulapalli Village comes within the radius of 10 kilo meters from the lakes and that in the annexure appended to the G.O., the name of the village was mentioned. It was also pleaded that in the master plan for the City of Hyderabad prepared by the then Hyderabad Urban Development Authority, a Special Conservation Zone was created covering this area and establishment of any industry, much less IT Industry is prohibited. However, the declaration u/s 6 of the Act was published on 5.11.2005. The petitioners contend that on coming to know that the area proposed to be acquired is covered by G.O. Ms. No. 111, the then Vice-Chairman and Managing Director of the Corporation addressed a letter to the Principal Secretary, Industries and Commerce Department with a request to drop the proposal to acquire the land and that such a request had in fact been acceded to. The petitioners contend that at a time, when the proceedings under the Act were about to be withdrawn, the A.P. Housing Board (for short the Board") intervened and the acquisition was continued for the benefit and purpose of the Board and not for the Corporation. With this and other grounds, the petitioners challenge the proceedings.

2. The contest to the writ petitions is mainly by the Corporation. In the counter-affidavit filed on its behalf, it is stated that every step in the matter is taken strictly in accordance with the relevant provisions of law. After the matter was heard at some length, this Court required the Corporation to make its stand clear on the various submissions made by the petitioners, in particular the alleged intervention of the Board, in the proceedings. In the additional counter-affidavit filed by the Vice-Chairman and Managing Director of the Corporation, it was admitted that the proceedings were continued on the insistence by and for its benefit.

3. The arguments on behalf of the writ petitioners are advanced by Sri E. Manohar, learned Senior Counsel, Sri Raghu Veera Reddy, Sri V.T.M. Prasad, Sri M.V. Durga Prasad and other learned Counsel on record. According to them, the acquisition is untenable, since not only establishment of industries but also the ordinary construction activity is prohibited in the area covered by G.O. Ms. No. 111, dated 8.3.1996. They submit that being the creatures under the Statutes, the Corporation and the Board are expected to respect the command under the G.O., but instead, they have become instrumental in flouting it. Learned Counsel submits that the said G.O. was issued on the directions from this Court, for preservation of the historical lakes, and the Urban Development Authority also has prepared the master plan in accordance with that, by creating special conservation zone.

4. It is urged on behalf of the petitioners that once the authority or agency, for whose benefit the land was proposed to be acquired, has submitted the proposals, for withdrawal of the acquisition, and steps in that direction were taken to a substantial extent, it was totally impermissible for the Board to step in, much less for the Government in Industries Department to accede to such request, ignoring its own decision to withdraw the proceedings. They also contend that the District Collector is not competent to issue the notification. They submit that the whole exercise becomes colourable, in the sense

that the acquisition was initiated for the benefit of one organisation for a particular purpose and it is being continued for the benefit of another agency, that too for a different purpose. Reliance is placed upon many precedents.

5. Learned Advocate General appearing on behalf of the State Corporation submits that though restrictions exist on the development of the land proposed to be acquired, any activity will be undertaken only after relaxation is granted by the concerned authority. He contends that the acquisition, albeit for the benefit of Board, continues to be a public purpose, and it is competent for the State to proceed with the acquisition, notwithstanding the fact that there is slight change as to the purpose, half way through. It is also submitted that the proposed activity, either of bringing out IT Industry as proposed in the beginning or construction of houses by the Board, would not result in pollution of the lakes/ much less prevention of diversion of the inflow of water into them. Learned Advocate General submits that in exercise of the power u/s 3A of the Act, the Government issued G.O. Ms. No. 235, Revenue, dated 10.3.1985 conferring power upon the District Collector to exercise powers under Sections 4, 5-A, 6 and 17(4) of the Act for acquisition of lands for the benefit of the Corporation. He too relied upon certain judgments.

6. There existed vast extent of open land, whether owned by the Government or by private individuals around the City of Hyderabad. The boulders on such lands, the flora and fauna made the environment and climate of the city congenial and comfortable. In addition to that, handful of major water bodies, such as Osmansagar, Hussainsagar, Miralam Tank, Saroornagar Tank and numerous small tanks existed within, or around the city. The water in the larger tanks was minerally rich on account of the fact that the catchment area has large deposits of Laterite. Water in Miralam Tank was one of the sources of supply of drinking water to the city. Its taste and portability was such that H.E.H. the Nizam used to take water of the lake, even when he went to out station.

7. However, the availability of open place has become virtually a curse. Indiscriminate use of the land for different purposes without any foresight or proper planning had changed the topography of the city. One after the other, the water bodies disappeared. Thanks to the rapid development, by the year 1965, water in Miralam Tank has become unfit for consumption by animals, let alone human beings. Quite good number of tanks within the city disappeared beyond any trace of identity.

8. Taking note of this alarming situation, this Court exhorted the Government to ensure that the two major sources of drinking water viz., Osmaniasagar and Himayatsagar do not meet the same fate as did the Miralam Tank. In compliance with these directions, the Government issued G.O. Ms. No. 111, dated 8.3.1996. Its relevant portion reads :

....3. Government after careful examination of the recommendations of the committee, have decided to issue the following orders in modification of the earlier orders issued in G.O. Ms. No. 192. M.A., dated 31.3.1994.

(i) To prohibit polluting industries, major hotels, residential colonies or other establishments that generate pollution in the catchment of the lakes as per list in Annexure-I.

However, residential developments in residential use zone may be permitted. The following measures shall be taken to protect water working in the lakes

(a) 60% of the total area shall be kept as open space and roads in all layouts in the villages of catchment area.

(b) The land use of about 90% of the area is classified as recreational and conservation use in the master Plan. The Hyderabad Urban Development Authority should take action for the classification of this 90% of the area as agriculture which is inclusive of horticulture and floriculture.

(c) To restrict the F.S.I. to 1.0.5 in the catchment area. This measure will ensure that 90% of the area remains under agriculture as is the practice now and ensure protection of the lakes.

(d) To monitor periodically and level of different pesticides, fertilizer residues carried into the lakes. The Hyderabad Metropolitan Water Supply and Sewerage Board shall conduct such studies through J.N.T.U./Central University or any other reputed agency and regular intervals and review the results once in 6 months.

(e) To prohibit polluting industries within 10 K. mtrs. radius (i.e. both on upstream and down stream side of the lakes) to prevent acidification of lakes due to air pollution.

(f) There shall be total prohibition of location of industries in the prohibited zone.

(g) Andhra Pradesh Pollution Control Board shall make further study of the existing industries in the upstream and down stream of the takes and take action under their Act.

(ii) For the protection of raw water channel from osmansagar to Asifnagar no layout or building permission should be granted by Municipal Corporation of Hyderabad/Hyderabad Urban Development Authority/Director of Town and Country Planning upto maximum of 100 ft. from the conduit site boundary. While approving layouts plan the conduit a minimum of 9 Mts. wide road plus green belt to a maximum width of 100 ft. should be insisted to act as buffer on either side of conduit and the green belt shall be accounted as part of mandatory open space to be laid parallel to the conduit and no sewerage/sullage water discharges shall be followed from the layouts towards the conduit.

(iii) Orders issued in G.O. Ms. No. 50 M.A. dated, 18.1.989 shall be effectively implemented by concerned Departments i.e. (1) Zilla Parishads, Ranga Reddy, Mahaboobnagar and Medak Districts (2) Panchayat Raj Department (3) Irrigation Department (4) Social Welfare Department are directed not to take up any building

works/check dams/lift irrigation works/storage reservoirs across vagus flowing in the catchment areas.

9. Annexure-I contains the list of 21 villages spread over the Districts of Ranga Reddy, Mahaboobnagar and Medak. Vattinagulupalli Village figures at Serial No. 20.

10. It is important to note that a master plan with extensive modification, for the City of Hyderabad was approved by the Government in Municipal Administration Department through G.O. Ms. No. 288, dated 3.4.2008 in exercise of power u/s 12(2) of the Andhra Pradesh Urban Areas (Development) Act, 1975. As many as 12 zones are created viz.,

(1) Residential Zone

(2) Commercial Zone

(3) Manufacturing Zone

(4) Public and Semi-Public Zone

(5) Multiple Use Zone

(6) Public Utilities

(7) Open Space Zone

(8) Conservation Zone

(9) Forests

(10) Water Bodies

(11) Special Reservations

(12) Transportation and Communication Zone

11. For each zone, the uses that are permitted and those which are prohibited are mentioned. For the conservation zone, the permitted and prohibited uses are:

12. The importance of G.O. Ms. No. 111, dated 8.3.1996 is evident from the fact that a specific mention thereof is made in the master plan.

13. Another aspect of the matter is that the establishment of computer software units/IT enabled services is permitted only in certain zones, such as Commercial, Manufacturing. It is also mentioned that all other uses that are not mentioned in Column No. 1 stand prohibited. It is not in dispute that Vattinagulapally Village is within the conservation zone.

14. In the recent past, projects or programmes of one type or the other were prepared and evolved with the main objective of availing as much land as possible. In many cases, the extent of land that was made available for industries was totally disproportionate to their genuine needs. For an establishment, which can be run in a building constructed over 1 or 2 acres, 50 to 100 acres was made available. It is not without any reason that the various projects that were launched have attracted the attention of C.B.I. and probe is on, as regards the manner in which the lands in Hyderabad were allotted. It is also matter of record that assignments made in favour of landless poor even during the regime of H.E.H. Nizam or early 50"s were cancelled with the sole objective of making the land available for allotment in favour of affluent individuals or organizations. If by chance, private individuals happened to own the lands, within the vicinity, indiscriminate acquisitions were resorted to.

15. In the instant case, certain Government lands in and around Vattinagulapally Village appear to have been made available to the Corporation. However, to expand the proposed activity further, proposals were mooted for acquisition of about 300 acres of private land in different survey numbers. It is only after the proceedings went upto certain stage, that the Vice-Chairman and Managing Director of the Corporation realized that the lands are covered by G.O. Ms. No. 111 and the proposed activity is not permissible upon the land. Accordingly, he addressed a letter, dated 11.8.2005 to the Principal Secretary, Industries and Commerce Department. It reads:

Andhra Pradesh Industrial Infrastructure Corporation Ltd.

(Government of Andhra Pradesh Undertaking)

Lr. No. 2183/P M(IPU)/APIIC/2005, dated 11.8.2005

The Principal Secretary to Govt. & CIP,

Industries & Commerce Department,

A.P. Secretariat

Hyderabad.

Madam,

Sub: APIIC - Land Acquisition of Vattinagulapally Village under Rajendranagar Mandal, RR District -withdrawal of LA Application - Reg.

Ref: (1) Lr. No. Dt. Nil of Sri D. Udayakumar Reddy. CMD, Tania Solutions Ltd., Film Nagar, Jubilee Hills, Hyderabad.

(2) Letter dated 29.6.2005 of M/s. Neo Trax Software Limited Addressed to the Government

With reference to the subject cited, I am to inform that on the advise of the Government of Andhra Pradesh, APIIC has filed requisition on 1.10.2004 for alienation of Government lands which were previously meant for Formula-I Race Course in Sy. Nos. 117, 127 to 132 measuring Acs. 273-30 Gts. in Vattinagulapalli Village, Rajendranagar Mandal, R.R. District for establishment of IT Parks.

APIIC has also filed requisitions with the District Collector, RR District for acquisition of patta lands measuring Acs. 297-03 Gts., in Sy. Nos. 53, 54, 65, 66, 70 to 73, 116, 118 to 126, 133 to 144 and 146 of Vattinagulapalli Village, Rajendranagar Mandal for establishment of IT parks. An area of Acs. 230-15 Gts. was notified under LA Act and DN&DD were published. There are 9 WPs pending before the Hon"ble High Court of Andhra Pradesh, Hyderabad against this acquisition. APIIC has also filed a requisition on 13.6.2005 with District Collector, RR District for acquisition of Sy. No. 132/2 measuring Acs. 10.00 which is abutting to the Government Lands taken possession by APIIC in the same village.

The Dy. Collector & MRO, Rajendranagar has handed over land measuring 120 acres in Sy. No. 132 of Vattinagulapalli Village on 26.10.2004. APIIC has called for expansion of interest for development of various sites for IT parks including the above Government land in Vattinagulapally. While the proposals were being finalized, it has come to the notice of the APIIC that these lands are covered under G.O. Ms. No. 111, MA & UD, wherein polluting Industries, Major Hotels, Residential Colonies or other establishments that generate pollution activities are prohibited. It has been brought to the notice of Hon"ble Chief Minister in the meeting held on 4.6.2005, it was decided for the deletion of the above lands from the layout of IT parks. It was suggested to use the same for other purposes in consonance with the use prescribed under G.O. No. 111. Therefore, the proposal for development of IT Park in Vattinagulapally has been dropped.

Under the circumstances, the proposal for acquisition of land Vattinagulapally Village for IT Parks needs to be reviewed. It is suggested private lands covered by G.O. No. 111 in Vattinagulapally Village may be dropped from land acquisition proceedings. Appropriate orders are requested from Government, in the matter. Yours faithfully,

Vice-Chairman &

Managing Director

Copy to the Secretary, IT&C Department, AP Secretariat, Hyderabad.

16. The record that is made available to the Court discloses that the proposal of the Corporation was placed before the Hon"ble Chief Minister and the same was accepted by him on 14.4.2008. On the basis of the same, the Principal Secretary addressed a letter, dated 25.4.2006 to the Vice-Chairman and Managing Director of the Corporation. It

reads:

Government of Andhra Pradesh Industries & Commerce (INF) Department

Letter NO. 16068/INF/A2/2005 Dated 25.4.2006

From

The Principal Secretary to Government & CIP Industries & Commerce Department
Secretariat, Hyderabad.

To

The Vice-Chairman & Managing Director, Industrial Infrastructure Corporation Ltd.,
Basheerbagh, Hyderabad

Sub: APIIC - Land Acquisition at Vattinagulapally Village under Rajenderanagar Mandal,
R.R. District - Withdrawal of L.A. Applications - Regarding.

Ref: From the VC & MD, APIIC Limited, Lr. No. 2183/PM(IPU)/APHC/2005, dated
11.8.2005.

I am to invite your attention to the letter cited and to inform that in the circumstances reported in the letter, the Government, after careful consideration of the matter, agrees with the proposal of the APIIC for withdrawal of the private lands to the extent of Acs. 173.55 acquired for the development of IT Parks at Vattinagulapally Village, Rajendranagar Mandal, Ranga Reddy District.

I am to request you to address the Collector, Ranga Reddy District to send necessary withdrawal proposals to Government through the Special Chief Secretary & Chief Commissioner of Land Administration in terms of orders issued in G.O. Ms. No. 1142, Revenue (LA) Dept., dated 24.7.1998, for taking further action in the matter.

Yours faithfully

Principal Secretary to

Government & CIP

17. However, even before the step suggested by the Government in its Industries Department for withdrawal of the notification have materialized, the Vice-Chairman and Housing Commissioner of the Board sensed that the proceedings for acquisition of land by the Corporation are going to be terminated through withdrawal and he wanted to make an effort to continue the acquisition for the benefit of an agency promoted or propped up by the board. A note, dated 28.6.2006 prepared by the Vice-Chairman of the Board reads:

Dated 28.06.2006

A.P.I.I.C. had initiated proposals for acquiring an extent of 248.29 acres of land in Vattinagulapally Village. R.R. District The said area is covered by G.O. Ms. No. 111 of M.A. & U.D. Department which restricts the constructions. In the process, the APIIC wanted to withdraw the Land Acquisition proposal. Looking at G.O. Ms. No. 111, which restricts the constructions, A.P. Housing Board can utilize the area by taking adequate mitigative measures as well as constructing 2/storeyed buildings on the 40% area. Since it was in consonance with the G.P., we have written to the Collector, R.R. District not to withdraw the LA case initiated by APIIC. The advantage of continuing with the acquisition of land of APIIC is saving of time. It is also for a public purpose and Supreme Court has held that land acquired for one public purpose can be utilized for another public purpose.

Industries Department has issued orders for the withdrawal of the Land Acquisition case because it is no longer required for the APIIC. However, since A.P.H.B. will require this land with the advantage of DN/DD date being anterior to 2006. This piece of acquisition will enhancing the value of the new SPV which we had been created.

This is for the information of the Hon"ble CM. that we are going ahead with the acquisition. On informing the Hon"ble CM., paper may be sent back to us, so that we can take up the matter with the Industries Department.

V.C & H.C

Addl. Secy, to CM.

CM.

18. Inspite of the best efforts by this Court, the identity of the "SPV" for whose benefit, the board endeavoured, did not come out. It is important to note that while the proposal for withdrawal of the land acquisition proceedings was specifically signed by the Hon"ble Chief Minister, what is mentioned in the note extracted above is that the Hon"ble Chief Minister has seen the, contents. This was followed by a letter addressed by the Vice-Chairman of the Board, dated 6.7.2006 to the Principal Secretary, Industries & Commerce Department, which reads:

D.O.Lr. No. VC&HC/APHB/2006, dated July 6th, 2006

My dear Laxmi,

Sub: Acquisition of land at Vattinagulapalli Village - Reg.

We have sent requisition for land acquisition in Vattinagulapalli Village. Essentially we wanted you to continue the land acquisition process initiated by APIIC, even if their need has ceased. Land acquired for one public purpose can be used for another public

purpose. The facts were informed to the Hon"ble CM. The annexed paper is appended herewith. Hence you may continue the land acquisition rather than withdrawing. Expenses incurred by APIIC will be borne by us and we will provide money required for passing award at appropriate time.

With warm regards,

Encl: Note

Yours sincerely

(S.N. Mohanty)

Smt. D. Laxmi Parthasarathi, IAS,

Pri. Secretary to Government,

Industries & Commerce Department, Govt. of Andhra Pradesh, Hyderabad.

19. Without even verifying the fact that the Department headed by her has directed that the proceedings under the Act be withdrawn, the Secretary proceeded to address letter dated 22.7.2006 requiring the Vice-Chairman and Managing Director of the Corporation to ensure that the proceedings are continued for the benefit of the Board. It reads:

D.O. Letter No. I6068/INF/A2/2005, dated 22.7.2006

Dear Sri Acharya,

Sub: Land Acquisition - Acquisition of land at Vattinagulapalli Village- Request to continue the land acquisition instead of withdrawing - Request - Regarding.

Ref: Government Letter No. 16068/Inf/A2/2005 dated 24.4.2006.

2. From the VC&HC, AP Housing Board, Hyderabad, dated July 6.7.2006.

Please refer to the letter 1st cited in which you have been requested to address the Collector, R.R. District to send the withdrawal proposals in respect of the private lands acquired for the development of IT Park at Vattinagulapalli Village, to Government through Spl. Chief Secretary & CCLA.

In this context I would like to inform that the Vice Chairman & Housing Commissioner, A.P. Housing Board desires to utilize the land for construction of buildings and requested to continue the land acquisition process. He has also informed that the expenditure incurred by APIIC so far will be borne by them and will provide money required for passing award at appropriate time.

Copy of the representation of the VC&HC, APHB with its enclosure are enclosed herewith and request you to take further necessary action in the matter under intimation to Government.

Yours sincerely

(D. Lakshmi Parthasarathy)

To

Sri B.P. Acharya, IAS.,

Vice Chairman & Managing Director,

A.P.I.I.C. Hyderabad (w.e.)

20. It is in this situation, that the proceedings for acquisition are being continued.

21. Not only this Court, but also anyone that has an idea about the functioning of the Government, would be shocked to know the manner in which (a) the proceedings under the Act were put to gross misuse; and (b) the orders issued by the Government and the master plan prepared under the Statute for conservation of lakes that supply drinking water were violated with impunity. The sequence of events would establish that there was lack of coordination among various Departments of the State Government. The Department of Municipal Administration and Urban Development has been making every efforts to preserve and conserve lakes. In addition to issuing G.O. Ms. No. 111, it continued steps thereafter regularly. For instance, in memo, dated 12.10.2007, issued by the Principal Secretary to Municipal Administration and Urban Development Department, it was observed:

Accordingly, Government hereby instruct all the concerned authorities of Panchayat Raj & Rural Development Department, Revenue Department, Municipal Administration & Urban Development Department, Industries & Commerce Department, Greater Hyderabad Municipal Corporation, Hyderabad Urban Development Authority, Cyberabad Development Authority, Hyderabad Airport Development Authority, Hyderabad Metro Water Supply & Sewerage Board, Director of Town and Country Planning, A.P. Housing Board and other functional bodies which are associated with regulating the construction and development activity within the catchment area of Himayat Sagar and Osman Sagar Lakes not to allow any construction, layout and non-agriculture development activity within the upstream area of Himayat Sagar and Osman Sagar Lakes in tune with G.O. Ms. No. 111 M.A. dated 8.3.1996.

Now that this entire catchment of the two water bodies falls within the jurisdiction of recently expanded Hyderabad Urban Development Authority area, the Vice Chairman, Hyderabad Urban Development Authority, the Collector. Ranga Reddy District, and the

Collector, Mahaboobnagar District shall ensure that no construction or development comes in violation of the above said G.O. they shall keep a strict vigil and take stringent action against the violators as per the law.

The Collectors, Ranga Reddy and Mahaboobnagar Districts, shall issue directions to all Gram Panchayats falling within the catchment area of the lakes not to issue any layout or building permission in violation of the provisions of G.O. Ms. No. 111, dated 8.3.1996.

22. It has already been observed in the preceding paragraphs that the gist of G.O. Ms. No. 111 was specifically incorporated in the master plan, lest it is violated even due to inadvertence. It is not out of place to mention that restrictions are placed on construction of any buildings, including ordinary houses, in the area covered by G.O. Ms. No. 111.

23. Now, it needs to be seen as to how far the steps taken by the respondents accord with the scheme under the Act.

24. The change of ownership of a piece of land from one to another can take place only through sale, or other modes mentioned under the Transfer of Property Act. The State is under obligation to take various measures for the welfare of the citizens and to regulate public life. Howsoever desirable it may be, to require it to take recourse to the ordinary procedure, for acquisition of properties such as by sale, many a time unwillingness on the part of the owner of the property would become a stumbling block. The existence of sovereign power in the State brings with it, the power of eminent domain. The Act is a legislation that translates this power into reality.

25. The State is conferred with the power to acquire lands of private citizens for public purposes, not with standing the disinclination on the part of the owner, to part with his land. An element of statutory coercion can be perceived in such an exercise. The power so conferred however can be exercised only for a clear and definite public purpose. The expression "public purpose" is not amenable to any precise definition. It takes in its fold, many categories. They may range from the acquisition for Government projects, like railways, roads, bridges, irrigation projects, to providing house sites to the poor.

26. Once the proceedings are initiated under the Act to acquire the land for a particular purpose, they must culminate in making the land available for that very purpose. It is not permissible to start the proceedings by mentioning one purpose, and to continue the same for an altogether different purpose. If that is done, the proceedings get vitiated on account of colorable exercise of power. The concept is too well known in the field of administrative law. Roughly stated, it is to the effect that if an authority, who is conferred with the power to take a decision on a particular subject, commences the exercise, but aimed at the result in relation to a different subject, the exercise tends to become colourable. The reason is that the facility that exists for exercise of power to achieve a particular (goal cannot be permitted to be misused to secure a different objective altogether.

27. It has already been seen in the instant case that the proceedings were initiated to acquire the land for the benefit of the Corporation. Half way through, it was found that the acquisition is impermissible and decision was taken at the highest level of the administration to withdraw the notifications in exercise of power u/s 48 of the Act. However, the track was changed and the whole exercise was aimed at achieving a different goal viz., to continue the acquisition of the land to make it available for the Board.

28. Normally, the plea alleging colorable exercise of power is raised, when the purpose for which the power is used turns out to be ostensible and the real objective happens to be something else. From the point of view of the administrative law, even where the genuine purpose on the one hand and ostensible purpose, for which colorable exercise was resorted, on the other hand are valid and legal, the invalidity would stare at. The reason is that where law requires a particular thing to be done in a particular manner, it should be done in that manner alone (see [Gujarat Electricity Board Vs. Girdharlal Motilal and Another](#), . The law prescribes different procedures, to be followed for enforcement of various provisions of law. May be sometimes the differences are too insignificant or inconsequential. All the same, the prescribed procedure must be followed.

29. In the field of land acquisition, the slight differences may be in relation to the authority competent to issue notifications. While in some cases, it is the Government, in other cases, such power has been delegated to District Collectors. So is the case with the making of the funds available or approval of the decision to initiate the proceedings at different levels. The parameters to decide whether or not to go for acquisition and the authority to accord approval would also vary. Therefore, even where the proceedings at the commencement or threshold, are legal and valid, they suffer from the vice of colorable exercise of power, if there is change of purpose of acquisition.

30. Being aware of the propensity of the authorities of the State to take recourse to the power of eminent domain indiscriminately, the Act places several inbuilt protections. The acquisition can be only for a public purpose. Even where it is intended for the benefit of a Company under Chapter VII, special procedure is required to be followed. The purpose, for which the land is proposed to be acquired, must clear the test, before it can be validly acquired. In other words, if the purpose cannot be said to be public in nature, the acquisition itself becomes untenable. Ancillary to this phenomenon, is the requirement that once the proceedings are initiated for a particular public purpose, it is impermissible to change it Apart from being an instance of colourable exercise of power, it tends to become fraud on the Statute.

31. Recently, the Supreme Court dealt with the question of similar nature in [Royal Orchid Hotels Limited and Another Vs. G. Jayarama Reddy and Others](#), . It was held that if a piece of land has been acquired for a particular purpose, it cannot be transferred to individuals, for a different purpose. It was held that even if proceedings of acquisition were upheld on earlier occasion, once it is noticed that the purpose was changed, the

proceedings deserve to be set aside, A Division Bench of this Court in S.K. Kiroloskar v. HUDA, 2010 (6) ALD 598 (DB), has undertaken extensive discussion on the subject, and held that if it emerges that the proceedings under the Act are vitiated by mala fide exercise of power, they deserve to be set aside. These two precedents squarely apply to the facts of this case.

32. It is not out of place to mention that the Board is also an entity created under a Statue and thousands, if not lakhs of acres, in different places of the State, were acquired for it by initiating the proceedings under the Act. It hardly needs any mention that the parameters for selecting a land or to initiate proceedings under the Land Acquisition Act for the Corporation on the one hand and the Board on the other hand are different from each other. Hardly there exists any similarity of objectives of these organizations. It is just unthinkable as to how an acquisition that commenced for the benefit of Corporation can be continued for the benefit of the Board. A perusal of the note submitted by the Vice-Chairman of the Board discloses that more than the public interest, it was the value addition to a "Special Power Vehicle", that weighed with him, to take over the proceedings of acquisition.

33. There is a separate Department in the Government for housing and Board functions under it. If the Vice-Chairman of the Board wanted the same land to be acquired for its benefit, he ought to have mooted the matter with the concerned Department in the Government. However, he has straight away addressed a letter to the Principal Secretary, Industries and Commerce Department. Instead of asking the Vice-Chairman of the Board to pursue the proper course of action, the Principal Secretary of the Industries Department acceded to that request, ignoring their own letter to the Corporation, advising them to withdraw the proceedings under the Act. Wisdom did not dawn upon them at least when writ petitions were filed and the blatant illegality was pointed out. This Court gains an impression that it is the so called "SPV", referred in the letter dated 28.6.2006 addressed by the Vice-Chairman and Managing Director of the Board, that is the driving force behind all these violations. The Senior I.A.S. officers who handled the Board and the Industries Department at the relevant point of time did not ensure compliance with the relevant provisions of law. Instead, they have exhorted or encouraged the Corporation to commit the illegally.

34. The letter addressed by the Principal Secretary to Industries Department to the Corporation on 24.4.2006 was on the basis that the acquisition becomes untenable, in view of G.O. Ms. No. 111, dated 8.3.1996. One just cannot imagine that the same department took the view three months thereafter that the acquisition can be continued for the benefit of the Board and no reference whatever was made to the G.O. Ms. No. 111.

35. The objective underlying G.O. Ms. No. 111 was to prevent environment and lakes that supply drinking water to the citizens. In S.K. Kiroloskar's case (supra), this Court emphasized the need to protect the environment. After referring to the various judgments

of the Supreme Court, it observed that if there exists any conflict between the development, on the one hand and the protection of environment and lakes, on the other hand, the State should lean in favour of the latter. The concerned Urban Development Authority has created a special conservation zone in the light of G.O. Ms. No. 111 Still, proceedings were continued, in utter violation of the G.O. and the Master Plan. There was absolutely no basis for the respondents to proceed with the acquisition.

36. Even from the facts pleaded by the respondents, it becomes clear that the acquisition has been made over from the Corporation to the Board. For all practical purposes, the Corporation is now pursuing the matter for the benefit of the Board. The only basis for all this blasphemy of law is the letter, dated 22.7.2006 addressed by the Principal Secretary, Industries & Commerce Department. One rarely comes across a greater violation of the business rules and of self-contradiction in the administration, not to speak of violation of specific provisions of law than this. Viewed from any angle, the proceedings cannot be sustained.

37. Hence, the writ petitions are allowed and the notifications impugned therein are set aside. The miscellaneous petitions filed in these writ petitions also stand disposed of. There shall be no order as to costs.