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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 887 OF 2015**

Shreyansh Jaiswal, S/o Shri Keshav Prasad Jaiswal, Aged about 20 Years, R/o B-823 (Earlier B-846), Kaveri Vihar, N.T.P.C. Township, Post Jamnipali, P.S. Darri, Tahsil Katghora, Revenue & Civil District Korba (C.G.)

(At the time of purchase of land, the petitioner was minor and was represented by his mother namely Jyoti Jaiswal, but now the petitioner has become major, so the mother is not arrayed as party).

---Petitioner

Versus

1. State of Chhattisgarh through Secretary, Department of Industries/Revenue, Mahanadi Bhawan, Mantralaya, Naya Raipur, Revenue & Civil District Raipur (C.G.)
2. Collector Raigarh, Revenue & Civil District Raigarh (C.G.)
3. Sub Divisional Officer (Revenue) Cum Land Acquisition Officer, Raigarh, Tahsil Raigarh, District Korba (C.G.)
4. General Manager, N.T.P.C. Limited, Lara Super Thermal Power Project, Office Address Opposite Chattisgarh Gramin Bank/SBI, Kotra Road, Raigarh, Revenue & Civil District Raigarh (C.G.)
5. Deputy General Manager (Vigilance), N.T.P.C. Limited Korba, Revenue & Civil District Korba (C.G.)

----Respondents

Writ Petition (C) No. 891 OF 2015

Smt. Sunita Devi, W/o Bhaiyalal Kushwaha, Aged about 51 Years, R/o NH-3, B-249, N.T.P.C. Township Vidhyanchal, Post & P.S.

Vindhnagar, Tahsil Biadhan, Revenue & Civil District Singrouli
(M.P.)

---Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Department of Industries/Revenue, Mahanadi Bhawan, Mantralaya, Naya Raipur, Revenue & Civil District Raipur (C.G.)
2. Collector Raigarh, Revenue & Civil District Raigarh (C.G.)
3. Sub Divisional Officer (Revenue) Cum Land Acquisition Officer, Raigarh, Tahsil Raigarh, District Raigarh (C.G.)
4. General Manager, N.T.P.C. Limited, Lara Super Thermal Power Project, Office Address Opposite Chattisgarh Gramin Bank/SBI, Kotra Road, Raigarh, Revenue & Civil District Raigarh (C.G.)
5. Deputy General Manager (Vigilance), N.T.P.C. Limited Korba, Revenue & Civil District Korba (C.G.)

-----Respondents

Writ Petition (C) No. 889 OF 2015

1. Ramesh Das S/o Late Shri Anand Das, Aged about 61 Years,
 2. Smt. Saroj W/o Shri Ramesh Das Aged about 55 Years,
 3. Digvijay Kumar S/o Ramesh Das, Aged about 38 Years,
 4. Ritesh Kumar, S/o Ramesh Das, Aged about 31 Years,
- All the Above are R/o main Road Katghora, Post, P.S. & Tahsil Katghora, Revenue & Civil District Korba (C.G.)

---Petitioners

Versus

1. State of Chhattisgarh, through Secretary, Department of Industries/Revenue, Mahanadi Bhawan, Mantralaya, Naya Raipur, Revenue & Civil District Raipur (C.G.)
2. Collector Raigarh, Revenue & Civil District Raigarh (C.G.)
3. Sub Divisional Officer (Revenue) Cum Land Acquisition Officer, Raigarh, Tahsil Raigarh, District Raigarh (C.G.)

4. General Manager, N.T.P.C. Limited, Lara Super Thermal Power Project, Office Address Opposite Chattisgarh Gramin Bank/SBI, Kotra Road, Raigarh, Revenue & Civil District Raigarh (C.G.)
5. Deputy General Manager (Vigilance), N.T.P.C. Limited Korba, Revenue & Civil District Korba (C.G.)

-----Respondents

Writ Petition (C) No. 888 OF 2015

1. Poshan Lal Dewangan S/o Shriram Dewangan, Aged about 59 Years,
2. Smt. Kumari Bai, W/o Poshan Lal Dewangan, Aged about 54 Years
3. Kumari Madhu Dewangan, D/o Shri Poshan Lal Dewangan, Aged about 30 Years,
4. Kumari Kalpana Dewangan, D/o Shri Poshan Lal Dewangan, Aged about 30 Years,
5. Kumari Dipika Dewangan, D/o Shri Poshan Lal Dewangan, Aged about 26 Years

All the Above are R/o B-960 (Earlier 950), Kaveri Vihar, N.T.P.C. Township Post Jamnipali, Tahsil Katghora, P.S. Darri, Revenue & Civil District-District Korba (C.G.)

---Petitioners

Versus

1. State of Chhattisgarh, through Secretary, Department of Industries/Revenue, Mahanadi Bhawan, Mantralaya, Naya Raipur, Revenue & Civil District Raipur (C.G.)
2. Collector Raigarh, Revenue & Civil District Raigarh (C.G.)
3. Sub Divisional Officer (Revenue) Cum Land Acquisition Officer, Raigarh, Tahsil Raigarh, District Raigarh (C.G.)
4. General Manager, N.T.P.C. Limited, Lara Super Thermal Power Project, Office Address Opposite Chattisgarh Gramin Bank/SBI,

- Kotra Road, Raigarh, Revenue & Civil District Raigarh (C.G.)
5. Deputy General Manager (Vigilance), N.T.P.C. Limited Korba, Revenue & Civil District Korba (C.G.)

-----Respondents

Writ Petition (C) No. 892 OF 2015

Smt. Shashi Shukla, W/o Banshi Gopal Shukla, Aged about 46 Years, R/o B-248, N.T.P.C. Township, Ujjwal Nagar Seepat, Post & P.S. Seepat, Tahsil Masturi, Revenue & Civil District Bilaspur (C.G.)

---Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Department of Industries/Revenue, Mahanadi Bhawan, Mantralaya, Naya Raipur, Revenue & Civil District Raipur (C.G.)
2. Collector Raigarh, Revenue & Civil District Raigarh (C.G.)
3. Sub Divisional Officer (Revenue) Cum Land Acquisition Officer, Raigarh, Tahsil Raigarh, District Raigarh (C.G.)
4. General Manager, N.T.P.C. Limited, Lara Super Thermal Power Project, Office Address Opposite Chattisgarh Gramin Bank/SBI, Kotra Road, Raigarh, Revenue & Civil District Raigarh (C.G.)
5. Deputy General Manager (Vigilance), N.T.P.C. Limited Korba, Revenue & Civil District Korba (C.G.)

----Respondents

Writ Petition (C) No. 898 OF 2015

1. Dev Saran Arya, S/o Shri Kishori Lal Arya, Aged About 62 Years,
 2. Kuldeep Arya, S/o Dev Saran Arya Aged about 23 Years,
 3. Hemant Arya, S/o Dev Saran Arya, Aged About 20 Years,
- All the Above are R/o. House No. 437, Housing Board Colony, Donde Khurd Raipur, Post Donde Kala, P.S. Vidhan Sabha,

Tahsil Raipur, Revenue & Civil District Raipur (C.G.)

---Petitioners

Versus

1. State of Chhattisgarh, through Secretary, Department of Industries/Revenue, Mahanadi Bhawan, Mantralaya, Naya Raipur, Revenue & Civil District Raipur (C.G.)
2. Collector Raigarh, Revenue & Civil District Raigarh (C.G.)
3. Sub Divisional Officer (Revenue) Cum Land Acquisition Officer, Raigarh, Tahsil Raigarh, District Raigarh (C.G.)
4. General Manager, N.T.P.C. Limited, Lara Super Thermal Power Project, Office Address Opposite Chattisgarh Gramin Bank/SBI, Kotra Road, Raigarh, Revenue & Civil District Raigarh (C.G.)
5. Deputy General Manager (Vigilance), N.T.P.C. Limited Korba, Revenue & Civil District Korba (C.G.)

-----Respondents

Writ Petition (C) No. 897 OF 2015

1. Keshav Prasad Jaiswal, S/o Late Shri K.R. Jaiswal, Aged about 58 Years,
2. Master Satwik Jaiswal, S/o Keshav Prasad Jaiswal, Aged about 14 Years,

Petitioner No. 2 is a minor and is represented through his natural guardian (Father) Shri Keshav Prasad Jaiswal.

Both the Petitioners are R/o B-823 (Earlier B-846), Kaveri Vihar, N.T.P.C. Township, Post Jamnipali, P.S. Darri, Tahsil Katghora, Revenue & Civil Distrixct Korba (C.G.).

---Petitioners

Versus

1. State of Chhattisgarh, through Secretary, Department of Industries/Revenue, Mahanadi Bhawan, Mantralaya, Naya Raipur, Revenue & Civil District Raipur (C.G.)
2. Collector Raigarh, Revenue & Civil District Raigarh (C.G.)

3. Sub Divisional Officer (Revenue) Cum Land Acquisition Officer, Raigarh, Tahsil Raigarh, District Raigarh (C.G.)
4. General Manager, N.T.P.C. Limited, Lara Super Thermal Power Project, Office Address Opposite Chattisgarh Gramin Bank/SBI, Kotra Road, Raigarh, Revenue & Civil District Raigarh (C.G.)
5. Deputy General Manager (Vigilance), N.T.P.C. Limited Korba, Revenue & Civil District Korba (C.G.)

-----**Respondents**

Writ Petition (C) No. 990 OF 2015

1. Smt. Hajra, W/o Emtiyaz Ali, Aged about 51 Years,
 2. Shirin Ali, D/o Emtiyaz Ali, Aged about 25 Years,
 3. Smt. Kaimunnisha, W/o Late Mustafa Khan, Aged about 80 Years
- All the above are R/o Village Churikala, Tahsil Katghora, District Korba (C.G.)
4. Smt. Shabana Ali, D/o Emtiyaz Ali, W/o Dr. Atique Ahmed, about 25 years, R/o College Road, Sakti, Post. P.S. & Tehsil Sakti, Revenue & Civil District Janjgir-Champa (C.G.).

---**Petitioners**

Versus

1. State of Chhattisgarh, through Secretary, Department of Industries/Revenue, Mahanadi Bhawan, Mantralaya, Naya Raipur, Revenue & Civil District Raipur (C.G.)
2. Collector Raigarh, Revenue & Civil District Raigarh (C.G.)
3. Sub Divisional Officer (Revenue) Cum Land Acquisition Officer, Raigarh, Tahsil Raigarh, District Raigarh (C.G.)
4. General Manager, N.T.P.C. Limited, Lara Super Thermal Power Project, Office Address Opposite Chattisgarh Gramin Bank/SBI, Kotra Road, Raigarh, Revenue & Civil District Raigarh (C.G.)
5. Deputy General Manager (Vigilance), N.T.P.C. Limited Korba,

Revenue & Civil District Korba (C.G.)

-----Respondents

Writ Petition (C) No. 925 OF 2015

1. Sylvester Lakra, S/o Shri Samuel Lakra, Aged About 55 Years,
2. Smt. Nirmala Lakra, W/o Sylvester Lakra, Aged about 54 Years,
Both are R/o AB-1428 & 1430 (Earlier A-1430), Kaveri Vihar,
N.T.P.C. Township, Post Jamnipali, P.S. Darri, Tahsil Katghora,
Revenue & Civil District Korba (C.G.)

---Petitioners

Versus

1. State of Chhattisgarh, through Secretary, Department of
Industries/Revenue, Mahanadi Bhawan, Mantralaya, Naya
Raipur, Revenue & Civil District Raipur (C.G.)
2. Collector Raigarh, Revenue & Civil District Raigarh (C.G.)
3. Sub Divisional Officer (Revenue) Cum Land Acquisition Officer,
Raigarh, Tahsil Raigarh, District Raigarh (C.G.)
4. General Manager, N.T.P.C. Limited, Lara Super Thermal Power
Project, Office Address Opposite Chattisgarh Gramin Bank/SBI,
Kotra Road, Raigarh, Revenue & Civil District Raigarh (C.G.)
5. Deputy General Manager (Vigilance), N.T.P.C. Limited Korba,
Revenue & Civil District Korba (C.G.)

-----Respondents

Writ Petition (C) No. 940 OF 2015

1. Smt. R.S.V.B. Nagalaxmi, D/o Late Shri Gurumurti, Aged about
48 Years,
(Wrongly mentioned in the impugned notice as Rabribala
Nagalaxmi)
2. Smt. R. Sampatamma, W/o Late Shri Gurumurti, Aged about 64

Years,

3. Kalepalli Ravindar, S/o K. Malayya, Aged About 33 Years,
4. Smt. Kalepalli Thirumala, W/o K. Ravindar, Aged About 29 Years,
5. Mulkala Swami, S/o M. Rajam, Aged About 34 Years,
6. Smt. Mukala Hemlata, W/o M. Swami, Aged About 29 Years,
7. Smt. L. Minaximi, D/o L. Laxmi Narayana, Aged About 51 Years,

All the petitioners are R/o 6-4-20/405 (C/o K. Lingayya), Jayalaxmi Towers, Bholakpur, Secunderabad, P.S. & Post Secunderabad, Tahsil Secunderabad, Revenue & Civil District Hyderabad (Telangana State).

---Petitioners

Versus

1. State of Chhattisgarh, through Secretary, Department of Industries/Revenue, Mahanadi Bhawan, Mantralaya, Naya Raipur, Revenue & Civil District Raipur (C.G.)
2. Collector Raigarh, Revenue & Civil District Raigarh (C.G.)
3. Sub Divisional Officer (Revenue) Cum Land Acquisition Officer, Raigarh, Tahsil Raigarh, District Raigarh (C.G.)
4. General Manager, N.T.P.C. Limited, Lara Super Thermal Power Project, Office Address Opposite Chattisgarh Gramin Bank/SBI, Kotra Road, Raigarh, Revenue & Civil District Raigarh (C.G.)
5. Deputy General Manager (Vigilance), N.T.P.C. Limited Korba, Revenue & Civil District Korba (C.G.)

-----Respondents

AND

Writ Petition (C) No. 939 OF 2015

1. Smt. P. Gyan Laxmi, W/o P. Satyanarayan Rao, Aged About 50 Years,
2. P. Sonal, D/o P. Satyanarayan Rao, Aged about 28 Years,

3. P. Smita, D/o P. Satyanarayan Rao, Aged about 21 Years,
4. P. Satyanarayan Rao, S/o P. Jagannath Rao, Aged about 58 Years,

All the Above are R/o C-642, Kaveri Vihar, N.T.P.C. Township, Post-Jamnipali, P.S. Darri, Tahsil katghora, District Korba (C.G.).

---Petitioners

Versus

1. State of Chhattisgarh, through Secretary, Department of Industries/Revenue, Mahanadi Bhawan, Mantralaya, Naya Raipur, Revenue & Civil District Raipur (C.G.)
2. Collector Raigarh, Revenue & Civil District Raigarh (C.G.)
3. Sub Divisional Officer (Revenue) Cum Land Acquisition Officer, Raigarh, Tahsil Raigarh, District Raigarh (C.G.)
4. General Manager, N.T.P.C. Limited, Lara Super Thermal Power Project, Office Address Opposite Chattisgarh Gramin Bank/SBI, Kotra Road, Raigarh, Revenue & Civil District Raigarh (C.G.)
5. Deputy General Manager (Vigilance), N.T.P.C. Limited Korba, Revenue & Civil District Korba (C.G.)

-----Respondents

For Petitioners	: Mr. Surfaraj Khan, Advocate
For State/respondents No.1 to 3	: Mr. Dilmanrati Minj, Deputy Govt. Advocate
For N.T.P.C./respondents No.4 & 5	: Dr. N.K. Shukla, Sr. Advocate with Mr. B.D. Guru, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

17/12/2015

1. Common question of fact and law is involved in these batch of writ petitions, therefore, they were heard analogously and

being decided by this common order.

2. The petitioners' lands were subjected to acquisition by the State Government for the benefit of Lara Super Thermal Power Project under the National Thermal Power Corporation Limited (for short 'N.T.P.C.') and apart from compensation in accordance with rehabilitation policy, they were entitled for employment but in lieu of appointment, rehabilitation grant was provided to land ousters/petitioners by making payment of Rs.5,00,000/- as a lump sum amount.

3. By impugned order/notice dated 25/04/2015, the N.T.P.C. has held that land oustees are not residents of village-Chhapora and they have illegally obtained the rehabilitation grant, therefore, they are not entitled for benefit of rehabilitation grant, therefore, they have been directed to deposit Rs.5,00,000/- in the R & R Department of N.T.P.C.

4. Feeling aggrieved against the aforesaid notice-cum-order, these batch of writ petitions have been filed by the petitioners stating *inter alia* that the benefit extended pursuant to the rehabilitation grant is sought to be taken without authority of law and without giving an opportunity of hearing to the petitioners as notice (Annexure-P/1) is an order after applying its mind by the respondent-N.T.P.C. and no material has been supplied to them, as such, the order impugned deserves to be set-aside.

5. Return has been filed by the State stating *inter alia* that the petitioners are not affected persons in terms of Clause 11.2.3 of the Chhattisgarh R & R Policy, 2007, as such, benefit has illegally been extended to the petitioners, therefore, it has rightly been directed to be recovered from them. The N.T.P.C. has also filed its separate return stating *inter alia* that such a notice/order has been issued pursuant to the enquiry made by the Sub-Divisional Officer (Revenue)-Cum-Land Acquisition Officer to ensure the recovery of rehabilitation grant and as such, it has rightly been directed to be recovered from the petitioners as they are not affected persons and are not entitled for the rehabilitation grant under the Chhattisgarh R & R Policy, 2007.

6. Mr. Surfaraj Khan, learned counsel appearing for the petitioners would submit that notice/order (Annexure-P/1) has been issued by the N.T.P.C. The N.T.P.C. has clearly applied its mind that the petitioners are not affected persons and are not entitled for rehabilitation grant under the Chhattisgarh R & R Policy, 2007, therefore, notice is an order after due application of mind which has been passed without giving an opportunity of hearing to the petitioners and taken away the rights already accrued in favour of the petitioners without supplying any material for reaching such conclusion, therefore, the order impugned (Annexure-P/1) deserves to be set aside.

7. Mr. Dilmanrati Minj, Dy. Government Advocate appearing for the State/respondents No. 1 to 3 would submit that the impugned notice-cum-order dated 25/04/2015 (Annexure-P/1) has been passed by the N.T.P.C.

8. Dr. N.K. Shukla, Senior Advocate with Mr. B.D. Guru, Advocate appearing for the respondents No.4 and 5 would submit that against show cause notice, the petitioners are at liberty to file reply only, therefore, the writ petitions as framed and filed are not maintainable under the law.

9. I have heard learned counsel appearing for the parties and given thoughtful consideration to the contentions raised therein and gone through the record with utmost circumspection.

10. It is well settled law that the writ Court may not exercise its discretionary jurisdiction in entertaining a writ petition questioning a notice to show cause unless it is without jurisdiction and without authority of law but it is equally well settled when the notice is issued with pre-meditation, the writ petition would be maintainable against show cause notice.

11. In the matter of **Siemens Ltd. v. State of Maharashtra and Others**¹, Their Lordships of the Supreme Court have held that the writ petition against show cause notice would be maintainable when notice is issued with premeditation and observed as under:-

¹ (2006) 12 SCC 33

"9. Although ordinarily a writ court may not exercise its discretionary jurisdiction in entertaining a writ petition questioning a notice to show cause unless the same inter alia appears to have been without jurisdiction as has been held by this Court in some decisions including State of Uttar Pradesh v. Brahm Datt Sharma, AIR 1987 SC 943, Special Director and Another v. Mohd. Ghulam Ghouse, (2004) 3 SCC 440 and Union of India v. Kunisetty Satyanarayana, 2006 (12) SCALE 262, but the question herein has to be considered from a different angle, viz, when a notice is issued with pre-meditation, a writ petition would be maintainable. In such an event, even if the courts directs the statutory authority to hear the matter afresh, ordinarily such hearing would not yield any fruitful purpose [See K.I. Shephard v. Union of India (1987) 4 SCC 431]. It is evident in the instant case that the respondent has clearly made up its mind. It explicitly said so both in the counter affidavit as also in its purported show cause notice.

10. The said principle has been followed by this Court in V.C. Banaras Hindu University v. Shrikant (2006) 6 SCALE 66, stating: (SCC p.60, paras 48-49)

"48. The Vice-Chancellor appears to have made up his mind to impose the punishment of dismissal on the respondent herein. A post-decisional hearing given by the High Court was illusory in this case.

49. In K.I. Shephard v. Union of India, AIR 1988 SC 686, this Court held: (SCC p.449, para 16)

"It is common experience that once a decision has been taken, there is tendency to uphold it and a representation may not really yield any fruitful purpose."

12. A bare perusal of the notice-cum-order issued by the N.T.P.C. shows that N.T.P.C. gave final notice dated 25/04/2015 (Annexure-P/1) saying that petitioners are not affected persons on account of acquisition of their lands and there is no livelihood loss for them. The rehabilitation policy provided to those persons working in N.T.P.C. as such, they are persons not entitled for rehabilitation grant under Clause 11.2.3 of the Chhattisgarh R & R Policy, 2007. Therefore, it appears that N.T.P.C. has applied its mind and formed its opinion with regard to entitlement or otherwise to the petitioners. Thus, the respondent-N.T.P.C. has already determined the liability upon the petitioners and it shows that notice-cum-order (Annexure-P/1) is not in the form of show cause notice but it is an order passed by N.T.P.C. after due application of mind, therefore, in the considered opinion of this Court, these writ petitions are maintainable and it is held accordingly.

13. The determination of the aforesaid question that writ petitions are maintainable brings me to the next question that as to whether the notice-cum-order (Annexure-P/1) has been issued without affording an opportunity of hearing to the parties.

14. The Supreme Court in the matter of **Prakash Ratan Sinha v. State of Bihar and others**² has held as under:-

² (2009) 14 SCC 690

9. The respondent is an instrumentality of the State, and therefore, all its administrative decisions would be subject to the doctrine of equality and fair play, as incorporated in Articles 14 and 21 of the Constitution of India. If any of its actions or administrative decisions result in civil consequences, the principles of natural justice. This principle of law has been laid down by this Court in a catena of cases.

13. The law in this regard has been settled by several decisions of this Court. The principle that emerges from the decisions of this Court is that, if there is a power to decide and decide detrimentally to the prejudice of a person, duty to act judicially is implicit in exercise of such a power and that the rule of natural justice operates in areas not covered by any law validly made.

15. In the matter of **Canara Bank v. Debasis Das**³, the Supreme Court has categorically held that an administrative order which involves Civil consequence must be consistent with the principles of natural justice by observing as under:-

“19.....Even an administrative order which involves civil consequence must be consistent with the rules of natural justice.”

The Supreme Court has elaborated the expression “civil consequence” by observing that (**Debasis Das case supra**) it

“encompasses infraction of not merely property or

³ (2003) 4 SCC 557

personal rights but of civil liberties, material deprivations and non-pecuniary damages.

The Court has further stated, that “in its wide umbrella comes everything that affects a citizen in his civil life.”

16. It is not in dispute that the notice-cum-order dated 25/04/2015 (Annexure-P/1) has been passed without affording an opportunity of hearing to the petitioners and it is also not in dispute that by the said notice-cum-order dated 25/04/2015 rehabilitation grant of Rs.5,00,000/- which has been given to the petitioners have been directed to be recovered by the petitioners on or before 16/05/2015, such a course is clearly impermissible in law and in teeth of law declared by the Supreme Court in this regard in the matter of **Canara Bank** (supra). Consequently, the notice-cum-order dated 25/04/2015 (Annexure-P/1) directing the petitioners to deposit Rs.5,00,000/- towards rehabilitation grant is hereby quashed. No order as to costs.

17. It is made clear that this Court has not expressed any opinion on the merit of the case. However, respondent-N.T.P.C. is at liberty to proceed further in accordance with law without being prejudiced by any of the opinion/observation made hereinabove.

Sd/-
(Sanjay K. Agrawal)
JUDGE

Head-Note

Writ petition against show cause notice is maintainable, if issued with premeditation.

कारण बताओ नोटिस यदि पूर्व चिंतन के साथ जारी किया गया हो तो उसके विरुद्ध रिट याचिका पोषणीय है।

(Yogesh Tiwari)
P.S. to His Lordship
Hon'ble Shri Justice Sanjay K. Agrawal

