PETITIONER:
CHAND KUMAR KAPUR

Vs.

RESPONDENT:
CHIEF SETTLEMENT COMMISSIONER PUNJAB & ORS.

DATE OF JUDGMENT12/12/1983

BENCH:
MISRA RANGNATH
BENCH:
MISRA RANGNATH
DESAI, D.A.
MISRA, R.B. (J)

CITATION:
1984 AIR 463 1984 SCR (2) 1
1983 SCALE (2)1057

ACT:
Displaced Persons (Compensation & Rehabilitation) Act, 1954.
East Punjab Administration of Evacuee Property Act, 1947.
Displaced person-Allotted land in semi-urban area-Policy decision taken to impose cut in allotment-Managing officer whether competent to cancel allotment.
Evacuee Property (Central) Rules 1950, Rule 14(6).
Action taken prior to promulgation of rule-Whether valid.
Interpretation of Statues-Displaced persons-Payment of compensation-Undue enrichment-Whether permissible.

HEADNOTE:
The appellant, an evacuee from West Pakistan was allotted about six standard acres of land as displaced person under the quasi-permanent scheme in a semi-urban area. In 1952, the Director of Rehabilitation submitted a proposal to the Financial Commissioner, Relief and Rehabilitation-cum-Custodian that premium cut of 5 villages, be enhanced from 18.3/4% to 50% as similarly situated villages carried a cut of 50%. The proposal also suggested that in two other neighbouring villages where no premium cut had been applied earlier, a similar cut of 50% should be applied. This cut was imposed on the footing that these lands abutted the Municipal area and had semi-urban character. This proposal was accepted by the Commissioner as also by the Governor before 22nd July, 1952 when rule 14(6) of the Evacuee Property (Central) Rules, 1952 was amended, which provided that in respect of quasi-permanent allottees cancellation was permitted only on grounds set out in rule 14(6)
A few allottees challenged the order implementing the policy decision of cut of 50% but the writ petition was however dismissed and the order was confirmed by this Court.
When steps were taken to enforce the cut, a writ petition was moved by the appellant. A Single Judge of the High Court dismissed the petition, and this order was confirmed by the Division Bench.
In the appeal to this Court on the question, as to

whether the Managing Officer operating under the Displaced Persons (Compensation & Rehabilitation) Act, 1954 could cancel the allotment made in favour of a displaced person under the East Punjab Administration of Evacuee Property Act, 1947, and the schemes framed thereunder.

2

Dismissing the Appeal,

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HELD: 1. At the time when the proceedings were initiated and the final order dated the 3rd February, 1952 was passed, the relevant provisions of sub clause (6) of rule 14 were not yet on the statute book and the action taken prior to their promulgation was perfectly valid and in accordance with law. [4 D]

2. There is no justification to allow the benefit claimed by the appellant. The respondent will however not be precluded from entertaining the offer by the appellant, if made, to pay the extra premium and/or any further demand with a view to obtaining a lawful settlement of the entire property without cut on the basis of the initial allotment. [5 G-H]

3. People who were uprooted from Pakistan and became displaced persons were to be compenstated on the footing that they had left behind lands in Pakistan and lands of people who had left India for Pakistan had become evacuee properly and the compensation to the displaced persons could be by settlement of such lands. In such cases no one can look for undue enrichment. Once it is held as a fact that the properties are semi-urban and when this had not been kept in view when original allotment had been made, it should always be possible to make an adjustment. Such an adjustment is just and fair. [5 C-D]

In the instant case, there were 117 allottees in villages which were declared semi-urban and 97 of these allottees paid the extra premium and were allowed to acquire the entire land given to them. Twenty allottees including he appellant took steps to challenge the decision regarding levy of premium as also cut in the allotments. There is no justification as to why any differential treatment should be shown to these twenty allottees particularly when all the 117 allottees stood at par so far as the application of the decision contained in the order dated February 3, 1952 was concerned. [5 E-F]

Basant Ram v. Union of India, [1962] 2 Suppl. S.C.R. 733; Hukum Chand etc., v. Union of India & Ors., [1973] 1 S.C.R. 896 referred to. Hoshnak Singh v. Union of India & Ors., [1979] 3 S.C.R. 399; distinguished.

JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2057 of 1970.

From the Judgment and order dated 5th March, 1970 of the Punjab & Haryana High Court at Chandigarh in L. P. A. No. 159 of 1968.

Harbans Lal and Vinoo Bhagat for the Appellant.

S. K. Bagga for the Respondents.

The Judgment of the Court was delivered by

RANGANATH MISRA, J. The only question which arises for consideration of this Court in this appeal by way of special leave under Article 136 of the Constitution against the Judgment of the Punjab & Haryana High Court in Letters Patent Appeal is as to whether the Managing Officer operating under the Displaced Persons (compensa-

3
tion & Rehabilitation) Act, 1954 ('1954 Act' for short), could cancel the allotment made in favour of the appellant under the East Punjab Administration of Evacuee Property Act, 1947 ('Punjab Act' for short) and schemes framed thereunder.

Appellant, an evacuee from West Pakistan owned agricultural land in District Lyuallpur. As a displaced person he was allotted a little more than six standard across of land in Village Kotla, Tehsil Jullundur in Punjab under the quasi-permanent scheme. In 1952 the Director of Rehabilitation submitted a proposal to the Financial Commissioner, Relief and Rehabilitation-cum-Custodian that premium cut of 5 villages, viz., Sufi Pind, Dhin, Barring Khusropur and Alladingpur be enhanced from 18.3/4% to 50% as similarly situated villages near Jullundur City carried a cut of 50%. This proposal also suggested that in two other neighbouring villages, viz., Shekhpind and Kotla where no premium cut had been applied earlier, a similar cut of 50% should be applied. This was on the footing that these lands abutted the Jullundur Municipal area and had semi-urban character. This proposal was accepted by the Commissioner as also by the Governor of the State before 2nd July 1952 when rule 14 (6) of the Evacuee Property (Central) Rules, 1950 was amended and in respect of quasi-permanent allottees cancellation was permitted only on grounds set out in rule 14(6). The allottees of Sheikh Pind and Kotla villages challenged the orders implementing the policy decision of cut of 50% before the hierarchy of rehabilitation authorities and moved the High Court by filing a writ petition. When that writ petition was dismissed, special leave was obtained from this Court and the Court found that after coming into force of the 1954 Act and the Notification made on March 24, 1955, under s. 12 of the Act, the lands already allotted to displaced persons ceased to be evacuee property and had become part of the pool created under the 1954 Act. Power was not available to be exercised under the 1950 Act.

Subsequently steps were taken to enforce the curt and a writ petition was moved before the High Court. When the single judge dismissed the petition, and appeal was taken to the Division Bench and four contentions were advanced on behalf of the appellant and cach one was negatived and the appeal was dismissed. It may be stated that appeal was heard along with 19 others raising common questions of fact and law. Against this confirming decision of the Division Bench, leave having been obtained from this Court, the present appeal has been filed.

4
Admittedly, the lands allotted to the appellant in village Kotla are close to the Municipal limits of the town of Jullundur and this being a question of fact, has not rightly been disputed before us. The High Court has found :

> "It deserves notice that the proceedings for the enhancement of the valuation of the land of the village and the consequent raising of the cut to 50 per cent were initiated as early as the year 1951. After due verification by the subordinate Rehabilitation Authorities by actual visits on the spot, the proposal to enhance the cut was finally approved by the Director General of Rehabilitation and subsequently received the seal of approval by the order of the Governor on the 3rd February 1952. The significant fact is that sub-clause (6) of rule 14 on which main reliance is being placed was substituted for the old sub-rule by

notification No. S.R.O. 1290 dated the 22nd July 1952..... It would thus appear that at the time when the proceedings were initiated and the final order dated the 3rd February 1952, was passed, the relevant provisions of sub-clause (6) of rule 14 were not yet on the statute book and the action taken prior to their promulgation was thus perfectly valid and in accordance with law. The order dated the 3rd of February 1952. therefore, did not have to conform to a provision which has been introduced subsequently. It was not the contention of the learned counsel that sub-clause (6) above said is to take effect retrospectively nor do we find anything in the said rule to accord any such effect to the same."

On the aforesaid finding the High Court held that the scheme stood altered.

We approve of this view taken by the High Court. Strong reliance had been placed by appellant's counsel on Basant Ram v. Union of India, Hukum chand etc. v. Union of India & Ors (2) and Hoshnak Singh v. Union of India & Ors(3). In Basant Ram's case this Court decided that the approval of the Central Government on the basis of which the Notification of March 24, 1955 had been made was misconceived inasmuch as with the coming into force of the 1954 Act the Administration of Evacuee Property Act, 1950 (Central Act 31
5
Of 1950) stood repealed and the evacuee property, subject to the Act of 1950, had become a part of the compensation pool under the Act of 1954. We agree with the analysis of that decision by the High Court. So far as the second case is concerned, the question that fell for consideration was whether rules framed by it could be made given retrospective operation by the Central Government when the statute either expressly or by necessary implication had not authorised rules to be made with retrospective effect. So far as the last case is concerned, the facts which gave rise to the dispute were very different and the ratio thereof has no application to the present set of facts.

In dealing with a matter of this type the broad perspective of the scheme has to be kept in view. People who were uprooted from Pakistan and became displaced persons were to be compensated on the footing that they had left behind lands in Pakistan and lands of people who had left India for Pakistan had become evacuee property and the compensation to the displaced persons could be by settlement of such lands. In a case of his type no one can look for undue enrichment. Once it is held as a fact that the properties are semi- urban and admittedly this had not been kept in view when original allotment had been made it should always be possible to make an adjustment. Such an adjustment is just and fair. It is appropriate to take note of a very significant feature, namely, there were 117 allottees in these villages which were declared sub-urban and 97 of these allottees paid the extra premium, and were allowed to acquire the entire land given to them, Twenty allottees including the appellant took steps to challenge the decision regarding levy of premium as also cut in the allotments. There is no justification as to why any differential treatment should be shown to these twenty allottees particularly when all the 117 allottees stood at par so far as the application of the decision contained in the order dated February 3,1952 is concerned. We do not know if under the changed circumstance the same benefit is available to be extended to the appellant now, viz., permitting him to pay

the extra premium at present. More than 30 years have passed and with the passage of such a length of time changed situations must have come to prevail. We see no justification to accept the appeal, and allow the benefit claimed by the appellant. But our dismissal of the appeal should not preclude the respondent authorities from entertaining the offer by the appellant, if made, to pay the extra premium and/or any further demand with a view to obtaining a lawful settlement of the entire property without cut on the basis of the initial allotment. We make no order for costs in this appeal.

N.V.K. Appeal dismissed.

6