

A THE MANAGING DIRECTOR O.I.I.D.C., BHUBANESWAR
v.
SARAT CHANDRA PATNAIK AND ANR.

APRIL 30, 1996

B [K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Orissa Industrial Infrastructure Development Corporation Act, 1980 :

C *Sections 4, 18, 33, 49—Board constituted for the management of the affairs of the business of the Corporation—State Government to place any industrial area or industrial estate under the management and control of the Corporation—Plot offered in one such industrial area—Respondent—allottee initially accepting the allotment—Later filing writ petition for a direction to reduce the amount fixed under the lease—Reliance placed on the internal correspondence with the Government—High Court directing to place the matter before the Government for final decision—Held, High Court was not right in giving the direction as it would appear that the Government had exceeded its power under S. 18 r/w S.33 of the Act—Respondent to pay the balance amount within six months.*

E CIVIL APPELLATE JURISDICTION : Civil Appeal No. 8661 of 1996.

From the Judgment and Order dated 18.8.92 of the Orissa High Court in O.J.C. No. 779 of 1989.

F Janaranjan Das for the Appellants.

S.K. Jain for Jain Hansaria & Co. for the Respondents.

Ms. Kirti Misra for the State.

G The following Order of the Court was delivered :

Leave granted.

We have heard learned counsel on both sides.

H This appeal by special leave arises from the order of the Division Bench of the High Court of Orissa, Cuttack Bench made in OJC No.

779/89. Admittedly, the appellant-Corporation was constituted under the Orissa Industrial Infrastructure Development Corporation Act, 1980 (for short, the 'Act'). The Board has been constituted for the management of the affairs of the business of the Corporation. Section 49 of the Act empowers the State Government to place any industrial area or industrial estate under the management and control of the Corporation. In furtherance thereof, certain plots have been offered for allotment in the industrial areas. The respondent is one on the offerees to accept the plot. By letter dated August 1, 1987, the appellant had offered the shed for 90 years lease for the consideration mentioned thereunder. The respondent, by letter dated September 3, 1987, accepted the offer and requested to transfer the plot in his favour. In furtherance thereof, the plot came to be allotted. Subsequently, relying upon the internal correspondence between the Government and the respondent and the letter of the Government dated 14.10.1980, the respondent filed a writ petition in the High Court seeking direction to reduce the amount fixed under the lease. The High Court in the impugned order directed to place the matter before the Government for final decision in the light of the directions.

The question, therefore, is whether the view of the High Court is correct in law ? Section 4 of the Act vests the general superintendence, directions and management of affairs and business of the Corporation in the Board of Directors subject to the powers issued by the Government under Section 18 which reads as under :

"18. The State Government may issue to the Corporation such general or special directions as to policy as it may think necessary or expedient for carrying out the purposes of this Acts, and the Corporation shall be bound to follow and act upon such directions."

Section 33 which is sought to be relied on by the counsel for the respondent also contemplates that certain directions be given by the State Government to the Corporation in the way for disposal of the land acquired by the Government and transfer to it without undertaking or carrying out any development thereon. Such directions would not be construed a routine administrative direction in the day to day administration of the Corporation. It must be read along with Section 18 in which the Government have been given power to give special or general directions as a policy

- A guideline in the management of the Board and also disposal of the properties. Otherwise, the very authority gets eroded and it would become a wing of the Government Department which does not appear to be the object of the Act. The letter which was relied on by the respondent would indicate as if the State has assumed the management in the day to day control of the administration of the affairs of the Board and the manner in which the sites are to be disposed of. It would appear that the Government had exceeded its power under Section 18 read with Section 33 of the Act.

- Accordingly, the High Court was not right in giving direction to place the matter again before the Government. Six months' time is given to the respondent to pay the balance amount.

The appeal is allowed. No. costs.

G.N.

Appcal allowed.