Kalayat ceased to be a municipal town right when the said notification was promulgated in its official gazette by the State of Haryana.

(16) The said notification cannot be said to be retrospective in operation, as if that notification is given retrospective effect, such interpretation would be contrary to all cannons of statutory interpretation and would also tend to defeat the cause of justice and fair play, Plaintiff Shyam Sunder spent 9 years before the Rent Controller and it would be working injustice to him if now it is said that the Rent Controller has no jurisdiction, though he had jurisdiction when this ejectment application was instituted and Shyam Sunder is directed to approach the Civil Court for ejectment of Ram Kumar under the general law of the land.

(18) So, this revision fails and is dismissed.

S.C.K

Before Jawahar Lal Gupta and N.K. Sud, JJ.

SANJEET SINGH GREWAL AND OTHERS,—*Petitioners*

versus

STATE OF PUNJAB AND OTHERS,—*Respondents*

C.W.P. No. 16738 of 2000

28th March, 2001

Constitution of India, 1950—Art. 226—Land Acquisition Act, 1894—Ss. 4 and 5-A—Punjab Regional and Town Planning and Development Act, 1995—Ss. 14, 15 and 56 to 78—Punjab New Capital (Periphery) Control Act, 1952—Ss. 5, 10 and 11—Punjab Regional and Town Planning and Development (General) Rules, 1995—Rl.22—State Government issuing notifications u/s 4 of the 1894 Act for acquisition of land—Land sought to be acquired for setting up a new town, Anandgarh—Promulgation of the 1995 Act by the Legislature—Aims and objects—1995 Act enacted to achieve the object of setting up a high powered Board consisting of experts in the fields of housing, engineering and town planning etc. to guide and direct the Administration in the process of urbanisation—U/s 15, the Board can associate any person whose advice it may require in performing its functions—State Government constituting a Board under the 1995

Act—Provisions of Ss. 14 and 56 of the 1995 Act authorise the Board to select the site for a new town—Selection of the site by the State Government on the recommendation of a Planning Committee and the Chief Town Planner—Government proceeding to establish the new town without consulting the Board regarding the selection of the site and even without referring the matter to it—Government failing to follow the prescribed procedure laid down under the provisions of the 1995 Act—The mere fact that the Government may not be bound by the report of the Board does not mean that the prescribed procedure can be just by-passed—A cumbersome procedure or delay in disposal of the matter cannot be a ground to ignore the prescribed procedure or the mandate of law—State Government itself constituting an authority u/s 31(1) of the 1995 Act for the establishment of a new town, thus, the plea that the provisions of the 1995 Act are not attracted is untenable—Land under acquisition falls within the controlled area—Government acquiring land for the new town without taking permission from the competent authority for raising construction and laying roads—Violation of the provisions of the 1952 Act—Allegations of mala fides—*Mere acquisition of land by some well-placed persons cannot vitiate the entire proceedings—State Government failing to pay compensation to persons whose lands were acquired many years back—It should not proceed to deprive people of their property on a mere promise to pay—Petitioners cannot be denied relief under Art. 226 merely because the majority of land-owners have not approached the Court—Writs allowed while quashing the impugned notifications being illegal.*

Held, that the Punjab Regional and Town Planning and Development Act, 1995 has been promulgated by the legislature with the object of creating and constituting the Regional and Town Planning and Development Board. The purpose of creating this Board and the other Authorities is to regulate and promote urban development. Even the duty to select 'a site for a new town' has been expressly entrusted to the Board under Section 56 of the 1995 Act. The Board has to notify its proposal regarding selection of site or area. It has to invite and consider the objections or suggestions that may be made by an individual or institution. Thereafter, the Board has to declare the site for a new town by publishing a notification in the official Gazette. Yet, the State has not even consulted the Board regarding the selection of the site. State Government has itself selected the site. It is proceeding to establish the new town by the name of 'Anandgarh' without even referring the matter to the Board. Keeping in view the declared purpose and object

of the Act, it is clear that the basic work relating to the selection of site and establishment of the new town has to be carried out by the Board and the other Authorities as constituted under the Act. The provisions of the Act are, thus, clearly applicable.

(Paras 42, 43 and 44)

Further held, that the Board is a statutory body created by the 1995 Act. The Board consists of a number of persons who have knowledge and experience of administrtion and Town planning etc. The provisions has a purpose to serve. It aims at constituting the Board in such a manner that it has experts in the fields of housing, engineering and town planning etc. to help and guide the administration. The purpose is obvious. If the recent happenings in the country are any indication, it is essential to carry out geological studies of the area and conduct surveys before selecting the site for a city. Every place cannot be suitable for the multi-storeyed monsters of steel and cement that are coming up at different places in the country. Nature is beautiful. But it demands obedience to its ordinances. When violated, the earth erupts and we have earthquakes. Man cannot continue to 'pick nature's pocket'. He must discipline himself. Recognising the imminent need for a multi-disciplinary consideration, the legislature has rightly provided for the association of experts in the Board.

(Paras 57 and 58)

Further held, that the Board did not select the site. The matter was not even placed before it. There was not even a pretence of consultation. The decision was taken by the Government on the recommendation of the Chief Town Planner and the Committee. The authority too was not appointed by the Board. It was appointed by the Government. It had not considered or examined the matter under the directions of the Board. It had considered three sites and made its recommendation to the Chief Town Planner. Thus, the mandate of law has not been followed.

(Para 82)

Further held, that under our system of jurisprudence, the executive is under a duty to act according to the terms of the status. Its actions have to confirm to the relevant provisions of the Act. In a society governed by the rule of law, the laws and not men, are supreme. These have to be followed. At all costs in all cases. The executive cannot depart. A cumbersome procedure or delay in disposal of the matter cannot be a ground to ignore the prescribed procedure or the mandate of law.

(Para 107)

Further held, that on a perusal of the provisions of the Punjab New Capital (Periphery) Control Act, 1952, it is clear that no construction can be raised in the controlled area without the permission of the competent authority. No construction of buildings or excavation of land is allowed without consent. The land in dispute falls within the "controlled area". It has not been even suggested that the State of Punjab has taken a written consent from the competent authority. Not even a request is alleged to have been made.

(Paras 131 and 132)

Further held, that a citizen is free to buy any available property. The rich have a right to invest. Even to make profits. The mere acquisition of land by some well-placed persons cannot vitiate the entire proceedings. Even if the affair be smelly, it is not clearly stinking. Thus, the respondents are entitled to a benefit of doubt when the entire acquisition is challenged on the ground of extraneous considerations.

(Para 140)

Further held, that the Court is getting petitions from citizens whose land was acquired years back. The usual complaint is that the compensation has not been paid. The State cannot proceed to deprive people of their property without having the resources to pay for it. It cannot proceed on mere hope. The plan must be realistic. The State cannot act on a mere dream. At the present moment the State is finding it difficult to keep its head up. It is not able to keep its expenses down. It should not proceed to deprive people of their property on a mere promise to pay.

(Paras 145 and 146)

Further held, that the dispute cannot be decided on the basis of numbers. The issues have to be settled on principles. Even the poor who may not have much land can have a good and justifiable cause. They cannot be denied relief merely because the majority is on the other side. The Court does not count heads. It has to primarily test the case on the touchstone of the statute. It has to examine the legality and propriety of the State action on settled principles of equity and fair play.

(Para 149)

G.S. Grewal, Sr. Advocate with Karam Chand, Barrister and H.S. Grewal, Advocte, *for the petitioners.*

H.S. Mattewal, Advocate General Punjab with M/s Sanjeev Sharma and Deepak Sibal, Advocates, *for respondent Nos. 1 to 4*

Ashutosh Mohanta and Ms. Lisa Gill, Advocate, *for respondent Nos. 5 to 7.*

JUDGMENT

Jawahar Lal Gupta, J.

(1) The petitioner in these five petitions maintain that the government is struggling to keep its appearances up and the expenes down. It is facing an acute financial crisis. Yet, it has decided to have a new town—'Anandgarh'. Next to Chandigarh. The petitioner complain that the Government's decision to set up the city and the notifications for acquisitions of about 10,522 acres of land are a fire that would finish the farms and the farmers, the gardens and the greenery. It should be put down before it damages and destroys the residences and the residents of 29 villages.

(2) In a nutshell, the petitioner allege that the provisions of law including the "Punjab Regional and Town Planning and Development Act, 1995" have not been observed. The mandate of law controlling the periphery of Chandigarh has not been followed. The advice of the Central Government in the Ministry of Urban Development to refer the matter to a committee of experts has not been heeded. The protest of the Ministry of Defence on account of the strategic deployment of missiles etc. has been ignored. The present site has been chosen only because the influential politician and senior bureaucrats have either purchased or already own land in the area. On these premises, the petitioners pray that the Court should intervene so that the homes and hopes of people who make a living out of the land under acquisition are preserved and protected.

(3) Notwithstanding the loud protests, the State of Punjab has made platitudinous claims. The city shall give absolute 'Ananda'. It shall be a 'futuristic city'. With every modern facility. The Chief Minister having made the announcement on an auspicious day in the holy city of Anandpur Sahib, the new city shall be the God's garden. A lamp of life for the citizen. And a source of money for the State. The non-resident Indians shall buy the plots and the State shall build this heaven on

earth. The State promises that the residents shall be rehabilitated. All the civic amenities shall be provided to them.

(4) In a court of law, the contending claims of the parties have to be necessarily tested on the touchstone of law. First, a brief resume of facts. The counsel have primarily referred to the pleadings in CWP no. 16738 of 2000.

(5) On March 13, 2000, the State of Punjab issued various notifications under Section 4 of the Land Acquisition Act, 1894, for acquisition of land in different villages in district Ropar. This acquisition was proposed to be made for 'a public purpose namely for setting up of New Town Anandgarh'. The interested persons were called upon to file their objections within 30 days. It was stipulated that the "plans of land may be inspected in the office of the Land Acquisition Collector, Anandgarh project, Plot No. 3, Sector 38-A, Chandigrh."

(6) The petitioners are the residents of villages Togan and Tira in district Ropar. The first two of them own 62 kanals 14 marlas of land in village Togan. The third petitioner has a holding of 71 kanals 7 marlas in village Tira. The copies of the notifications in respect of these two villages have been produced as Annexures P-1 and P-2 with the writ petition. In one of the connected cases the copies of all the notifications relating to the entire area under acquisition have been placed on record as Annexure P-1 to P-29 with the writ petition.

(7) The petitioners allege that the notifications are in derogation of the provisions of the 'Punjab Regional and Town Planning and Development Act, 1995' and the Rules framed thereunder. In particular, it has been alleged that—

(i) The Board as constituted under the Act had not examined the matter in the light of rule 22 which lays down the relevant considerations;

(ii) No notification was published by the Board as required under Section 56(1) of the Act. No opportunity as contemplated under Cl. (4) has been given to the public to raise objections regarding the selection of the site for the consideration of the Board;

(iii) The Board has not designated a Planning Agency as contemplated under Section 57 and no order has been passed under Section 58 for assigning the functions;

(iv) The survey etc. as contemplated under the Act has not been conducted and no public notice of such a report has been given under Section 59;

(v) In a meeting held under the chairmanship of the Chief Secretary on 16th October, 1998, it was proposed to have a new township on both sides of Siswan-Kurali road. Thereafter the Chief Minister "while inaugurating the 300th anniversary of the creation of the Khalsa on Baisakhi 1999 declared to set up a new town Anandgarh at Anandpur Sahib." Subsequently, on 20th May, 1999, the government issued a notification under Section 31 for the creation of a "New Town Planning and Development Authority for Anandgarh." This was a colorable exercise of power as no decision under Section 56 had been taken. The petitioners allege that the notification dated 20th May, 1999 is illegal;

(vi) The provisions of Sections 70 to 78 have not been complied with.

(8) In the connected petitions, the respective petitioners have stated that the notifications for the acquisition of land in various villages were isued on13th March, 2000. These were published in the press on different dates from 15th March, 2000 to 18th March, 2000. Copies of the notifications relating to the 29 villages have been produced as Annexures P-1 to P-29 in CWP No. 9047 of 2000. Certain additional grounds have been raised. In a nutshell, the petitioners allege that :—

(i) The present site for the new town has been selected as a large number of influential people including senior bureaucrats and members of All India Services have bought land in the area. The government has announced compensation at an exorbitant rate ranging from Rs. 7 lacs to Rs. 12 lacs per acre;

(ii) The provisions of the Punjab New Capital (Periphery) Control Act, 1952 and the Rules have been violated;

(iii) The land under the plough is being acquired. However, the land that falls within the 'Lal Lakir' has structures thereon. It is used for residence. It has been excluded from the area under acquisition. On the fertile land being acquired, the inhabitants would be left with no source of livelihood. The landowners may get compensation, but a large number of persons who are merely working as labourers, artisans and carpenters would have no source of livelihood;

(iv) The site is not suitable for a new town. There is a dearth of water. Chandigarh is already facing shortage. There will be problems of sanitation. About 20% of the land mentioned in the notification is under seasonal streams. No construction can be raised on the low-lying sandy tract. It has also been alleged that the defence force have raised objections in view of the missile base in the area.

(v) The ecology of Chandigarh shall be spoiled.

(9) On the above noted grounds, the petitioners in these five petitions pray that the impugned notifications produced as Annexures P-1 to P-29 be quashed.

(10) The respondents contest the petitioners' claim. Separate written statements have been filed on behalf of the Punjab State and the other respondents. The reply on behalf of the Punjab State etc. has been filed by Mr. A.K. Dubey, the Principal Secretary for the Department of Housing and Urban Development.

(11) First, the background facts as given in reply to one of the petitions may be briefly noticed.

(12) It has been pointed out that in a developing society, rapid urbanisation marked by a mass movement of the people is inevitable. The process puts pressure on land, infrastructure and other amenities existing in the towns and cities. The local bodies are "unable to cope with these challenges." Thus, the State has to intervene. Otherwise, the colonizers guided by the profit motive would play havoc. The "only effective and desirable way of securing planned development is for the government to play a pro active role through acquisition and development of land....."

(13) A 'stark reality' that confronts the government is the "utter inadequacy of funds....." The State is therefore forced "to look for only those avenues which are entirely self-sustaining so far as the financial aspects are concerned." The investments come only around the big cities where infrastructure and facilities are available. Therefore, new towns are being developed at the "fringes and the periphery of the existing cities." The experience has shown that it is not possible to stop the growth of the cities. With "regard to the periphery of cities, the choice is never between urbanising it or not. It will necessarily be urbanised. Thus, the real choice invariably is between developing it in an orderly planned manner or in a haphazard, chaotic manner. The planning and development of new town of Anandgarh has to be seen in this context."

(14) According to the respondents, the year 1999 marked the 300 years of the great historic event viz. the birth of the 'Khalsa'. The government of Punjab joined people all over the world to celebrate this event in a unique and unprecedented manner. Inaugural celebrations here during 8th/14th April, 1999 acclaimed universal success. As part of tercentenary commemoration, the Chief Minister, Punjab announced the decision of the government to set up a new town to be named 'Anandgarh'. This "will be an ultra-modern, futuristic city with global vision to reaffirm to the world at large Punjabi spirit of enterprise, hard work, innovation and risk taking attitude. This will be a telling story of Punjab's entrepreneurial talent and ability to move head-long into the next millennium and to take on world-class endeavours in the emerging hi-tech sectors and areas recognisable globally."

(15) The government has set up a separate authority to be called. "The New Town Planning and Development Authority for Anandgarh" to plan and set up the city. The Authority has in consultation with the Chief Town Planner of the State examined various alternative sites for the new town and found the site close to Chandigarh the most suitable. The matter was placed before the cabinet. After consideration of all the relevant factors like the economics, the growth profile, the need for land, the prospect of attracting the non-resident Indians, and the available infrastructural facilties, the site close to Chandigarh was choosen. It was felt that the new site will help in protecting the environment and the ecology of the region.

(16) It has been particularly pointed out that the land has not been purchased by only the influential persons with the object of making huge profits through the compulsory acquisition of land by the government. Most of the people who have purchased land had actually opposed the acquisition.

(17) It has been also stated that in the area that is being acquired for the new City, there are broadly three types of land. The maximum area is in the category of land described as 'Gair Mumkin Pahar', which mostly belongs to the village proprietary body or forms a part of the 'Shamlat'. A large part of this land is covered by the provisions of the Land Preservation Act and the Forest Act. Chunks of this land have been exchanging hands at a very low rate. The second category of land forms a part of the beds of various 'Choes' passing through this area. Broadly even this land is not fit for cultivation. The third category of land is cultivable. The compensation is to be paid "only as per the provisions of the Land Acquisition Act." In this particular case, the 'district committee' in its preliminary deliberations has considered rupees

7.5 lacs per acre for good quality of land and about rupees one lac per acre for the lands falling in 'Nadies' as adequate compensation. These rates are reasonable when compared with those at which compensation has been given in the case of other acquisitions in the State. By way of instance, it has been mentioned that for the land acquired in 'Mohali' which adjoins Chandigarh, the rates recommended by the district committee range from rupees 7 lacs to rupees 10 lacs per acre.

(18) In this context, it has also been pointed out that "the petitioners and other people in their claims to the Land Acquisition Officer, have demanded much higher prices from rupees 75 lacs to rupees 1 crore per acre." It is, thus, obvious that "the price being paid by the government is much less as compared to the price that the land would command in the market." The State government proposes to acquire about 15,000 acres of land, which is cultivable, and about 22,000 acres of hilly land to be used for "Nature Park".

(19) The petitioners' allegation that the present Chief Minister of Punjab had initially opposed the proposal for a new town near Chanigarh has been admitted. However, it has been stated that the scheme for 'new Chandigarh' as prepared by the late S. Beant Singh was opposed by various political parties including Messrs Parkash Singh Badal and Sukhdev Singh Dhindsa. The main ground for opposition was the inadequate compensation, the lack of provision for rehabilitation and the "uprooting of village abadis." The present government has amended the procedure and method for fixing the land rates and made "the process of price fixation more broad based by including representatives of the people and as a result the land owners are now getting compensation in tune with market rates." The government "has framed a comprehensive relief and rehabilitation policy in consultation with the field functionaries." The government "has also decided not to uproot the villagers and the residential areas will not be compulsorily acquired." Instead, these will be developed to bring them in harmony with the surrounding urban areas. All modern civil amenities will be provided to them. The allegation that one lac people will be affected has been denied. It has been pointed out that the projected population of the area in the year 2000 is 30021. Still further, the details regarding the land owned by various persons mentioned in the Petition have been given. The allegation that the decision regarding the project was *mala fide* has, thus, been denied.

(20) It has been admitted that out of 9,354 acres of land notified for acquisition, about 850 acres are covered "under the Preservation Act, 1900". It is maintained that the State is competent to take a decision

to set up a new town. The matter was even discussed in the State Legislative Assembly. The allegations regarding the infringement of Articles 19 and 21 of the Constitution of India have been controverted. It is maintained that no objection has been raised by the defense forces to the setting up of the new town. Allegations regarding the violation of the provisions of the Punjab New Capital (Periphery) Control Act, 1952, and the Chandigarh Master Plan have been denied. The correctness of the observations contained in various press reports produced by the petitioners has been disputed and the claim of the petitioners repudiated.

(21) In the reply to CWP No. 16738 of 2000, a 'Preliminary' statement of facts has been made. It has been suggested that the petitioners have not correctly understood the provisions of the 1995 Act. Chapters VII, IX and X are "aimed at prohibiting the development and change in the use of land in the planning area by the persons except with the permission from the competent authority under sections 67, 68, 81, 82 of the Act. Such a detailed and long drawn procedure for declaring a planning area and preparation of plan is provided to safeguard the interests of land holders who are not given any compensation for the restrictions placed by the Master Plan/Regional Plan in such planning areas. In case of acquisition of land under the Land Acquisition Act, it extinguishes the rights of the owners completely with the award of compenation to the owner and thereafter such land vests in the government without any encumbrances and **it is not mandatory to follow the procedure as laid down in the chapters mentioned above for the planning of such lands owned by the government."** (emphasis supplied).

(22) On merits it has been stated that the petitioners have wrongly interpreted Section 56 of the Act to imply that a notification is mandatory before starting the proceedings for acquistion of land. The provision is "to prevent the change of land use during the publication of Master Plan/Regional Plan and is not relevant if the Authority decides to acquire the land and then develop the same as a new town/urban estate." Sections 56 to 78 are in no way related to the acquisition of land. The petitioners can file objections under Section 5-A of the Land Acquisition Act without the preparation of the Master Plan. This provision provides sufficient safeguard to the land owner and is not to be mixed up with the provisions of Section 56 of the 1995 Act. The two provisions have "entirely different intent and purpose." Action under Section 56 and subsequent sections is not mandatory for acquisition of land for the new town. The site for the new town has to be declared as "planning area if the government intends developing the new town

only by regulating the use of land and enforcing the Master Plan to be prepared for the new town. In the present case the government intends to acquire land after payment of compensation to the owners as awarded under the Land Acquisition Act and therefore the declaration of the site under Section 56 is not mandatory."

(23) It has been emphasized that the provisions of Sections 56 to 59 and 70 to 75 of the Act can be invoked only when the government wants to implement the Master Plan without acquiring the land. These provisions are not attracted in the present case.

(24) On these premises the respondents—State of Punjab etc. maintain that the writ petition should be dismissed with costs.

(25) The petitioners have filed a replication to the written statement filed on behalf of the State of Punjab. The preliminary objections have been controverted. It is admitted that the industry and business are attracted by the towns. However, it is maintained that 'Anandgarh' is being built primarily because the Chief Minister has made a commitment. The government wants to bring in the non-resident Indians to settle down in a modern town. The present site has been chosen only because it is profitable to build a new township near Chandigarh. None of these considerations amount to a public purpose so as to justify the compulsory acquisition of land.

(26) The petitioners maintain that a planned city shall be converted into "a cluster of population by reducing greenery and by installing industry in the neighbourhood. Everything which is commercially viable may not be legally justifiable." The pressure on the periphery of Chandigarh cannot mean that the law should not be respected. The green belt around Chandigarh should not be allowed to be reduced.

(27) The other averments in the written statement have also been broadly controverted. The pleas raised in the petition have been reiterated. The relevant portions shall be noticed at the appropriate stage.

(28) The respondents have filed a rejoinder to the replication.

(29) In CWP No. 9143 of 2000, the Union of India has filed a separate reply. It has been pointed out that the Union Minister for Urban Development and Poverty Alleviation had made a suggestion for the constitution of a 'committee of experts'. A copy of the letter dated

29th May, 2000 sent by the Minister has been produced along with the reply. A suggestion for the study of the planning, environment, financial and other implications of the entire project was made. It was pointed out that the Planning of 'Anandgarh' town in the proximity of Chandigarh will not be in consonance with the legacy of Le Corbusier, which states that "in order to maintain harmony between a city and its periphery, their functions must not be interchanged". Despite expressing reservations about the project and the above noted agreement with the petitioners, the respondent prays that the writ petition be dismissed. A separate reply has also been filed on behalf of the Ministry of Defence in one of the cases. It shall be noticed at the appropriate stage.

(30) These are broadly the pleadings of the parties in the five petitions that have been placed before this bench for disposal.

(31) Learned counsel for the parties have been heard. On behalf of the petitioners it has been contended by Mr. G.S. Grewal that the decision of the State government is wholly illegal. It is contrary to the provisions of the 1995 Act. Under the provisions of law, it is only the Board, which can select the site for the setting up of a new town. The Board as constituted under the Act exists. Despite that it was not even consulted. Its opinion was never sought. It was ignored in entirety. Thus, the very conception of the new town of 'Anandgarh' is in derogation of law. Even the provisions of the Punjab New Capital (Periphery) Control Act, 1952 and the Rules framed thereunder have not been followed. The government cannot act on the whim or desire of an authority. The counsel submitted that in the present case the whole action is based on the statement made by the Chief Minister. The matter was never examined by anyone before the Chief Minister had made the announcement.

(32) Mr. Mattewal, the Advocate General submitted that the provisions of the 1995 Act are wholly irrelevant. The State can select the site and set up a new town. The action of the government in proceeding to acquire the land is in conformity with the letter and spirit of law. It is in public interest. No ground for interference is made out.

(33) In view of the above noted pleadings and contentions, the questions that arise for consideration are :—

(i) Are the provisions of the Punjab Regional and Town Planning and Development Act, 1995 applicable to and attracted in the facts and circumstances fo the present case ?

(ii) If yes, have the provisions of the 1995 Act been followed in the present case ? Does the selection of the site for setting up the city of Anandgarh conform to the requirements of the statute ?

(iii) Have the respondents acted in violation of the provisions of the Punjab New Capital (Periphery) Control Act, 1952 and the Rules framed thereunder ?

(iv) Is the action of the respondents based on extraneous considerations and vitiated by *mala fides* ?

(v) Have the petitioners made out a case for interference by this Court under Article 226 of the Constitution of India ?

(34) We can now proceed to consider these questions in the light of the contention raised by the learned counsel for the parties.

Re. *(i) : Are the provisions of the Punjab Regional and Town Planning and Development Act, 1995 applicable to the facts and circumstances of the present case ?*

(35) According to Mr. Grewal, the State cannot select the site and set up a new town without following the procedure laid down in the 1995 Act. Mr. Mattewal submitted that the Act is not attracted. Is it so ?

(36) First, why was the Act of 1995 enacted ? What was malady that needed a remedy ? Were the existing statutes not enough to solve the problem of regulating urbanisation. The statement of 'Objects and Reasons' gives a clue to the query. It may be briefly noticed.

(37) The Act was promulgated by the legislature with the purpose of making "provision for better planning and regulating the development and use of land in Planning areas delineated for the purpose, for preparation of Regional Plans and Master Plans and implementation thereof; **for the constitution of a State Regional and Town Planning and Development Board, for guiding and directing the planning and development process in the State;** for the constitution of a State Planning and Urban Development Authority, Special Urban Planning and Development Authority and New town planning and development authorities, for the effective and planned development of planning areas; and for undertaking Urban Development and housing programmes and schemes **for establishing new towns;** and for matters connected therewith or incidental thereto."

(38) This is like the preamble to a statute. This is the declared objective that the legislature wanted to achieve through the Act. The statute was enacted to regulate and plan the use of land. To ensure proper urbanisation. To check haphazard growth. And to achieve these objectives, the Act provided for the constitution of the Board and other appropriate Authorities. The legislature had particularly noticed that despite the existence of various laws, the slums, uncongenial environment, choked city roads, encroachments on public lands, congested highways and inadequate civic amenities were a living reality. It was also felt that the process of urban development had been heavily dependent on the availability of government funds. The existing Punjab Housing Development Board had failed to achieve the desired objectives. The target of a substantial increase in the Housing stock especially for the economically weaker sections of the society had not been achieved. It was realised that for achieving the object of a massive house-building program, it was necessary to generate the required funds. Thus, it was essential to create a close interlink between land development and house construction. It was declared in no uncertain terms that the legislative measure was calculated to "facilitate optimum exploitation of the valuable asset of urban land."

(39) It has been specifically mentioned that the Act is intended to achieve the object of setting up **"a high-powered Board to advise the State government and to guide and direct planning and development agencies, with respect to matters pertaining to the planning, development and use of Urban and rural land".** It also postulates the setting up of a "State level urban planning and development authority and to provide for the setting up of Special Urban Planning and Development Authorities and New Town Planning and Development Authorities to promote and secure better planning and development of different regions, areas and cities." The Act is also intended to create a "legal and administrative set up for the preparation and enforcement of the Master Plan for regions, areas and for **existing and new cities".** One of the declared objectives of the statute is to make "the whole program of urban development mainly a self sustaining and self-paying process". It is intended to provide a "boost to the program of house construction, especially for the economically weaker sections of the society". The Act aims at achieving the object of "filling the gaps in the required civic infrastructure and securing the renewal and redevelopment of congested and decayed areas in the existing towns".

(40) A clear statement of objectives and measures.

(41) It deserves notice that the statute specifically repeals the

Punjab Scheduled Roads and Controlled Areas Restrictions of Unregulated Development Act, 1963; and the Punjab Urban Estates (Development and Regulation) Act, 1964. It is further provided that the "Punjab Housing Development Board Act, 1972 shall stand repealed on and with effect from the date on which the Punjab Housing Development Board is abolished under S. 148 of this Act."

(42) On a perusal of the above it is clear that the new legislation is pushing the old laws out. To meet the needs made manifest by experience. The Act has been promulgated by the legislature with the object of creating and constituting the Regional and Town Planning and Development Board. The purpose of creating this Board and the other Authorities is to regulate and promote urban development. It is also intended to create an infrastructure that would establish new towns and improve the already existing ones so that the slums and choking congestion are reduced. The towns should have reasonable facilities and be habitable for the inhabitants.

(43) A cursory glance through the provisions of the Act brings out clearly that it was enacted to constitute the Board and other Authorities to 'guide' and 'direct' the process of urbanisation. For establishing 'new towns'. Even the duty to select 'a site for a new town' has been expressly entrusted to the Board under S. 56 of the Act. The Board has to notify its proposal regarding selection of site or area. It has to invite and consider the objections or suggestions that may be made by an individual or institution. Thereafter, the Board has to "declare.....the site for a new town" by publishing a "notification in the official Gazette."

(44) Yet, the state has not even consulted the Board regarding the selection of the site. In fact, the Advocate General contended that the Act is not even applicable. It is the admitted position that the state government has itself selected the site. It is proceeding to establish the new town by the name of 'Anandgarh' without even referring the matter to the Board. Keeping in view the declared purpose and object of the Act, it is clear that the basic work relating to the selection of site and establishment of the new town has to be carried out by the Board and the other Authorities as constituted under the Act. The provisions of the Act are, thus, clearly applicable.

(45) Mr. Mattewal contended that the provisions of the 1995 Act are attracted only when the government does not wish to pay compensation for the land included in the Planning Area. The contention is misconceived. The Act makes no such distinction.

(46) It can happen that the government and/or the Authority may undertake a project for the planned development of an area. It may decide to provide properly designed houses to the residents of the place. It may also decide to replace the 'kacha' paths with proper roads. Even a scheme for supply of potable water and providing proper sanitation etc. may be made. In such a case, the landowners shall not be deprived of their property. Thus, acquisition may not be required. However, even then, the matter shall have to be considered by the Board or the appropriate Authority in accordance with provisions of the Act and the Rules.

(47) In the present case, it is the admitted position that,—*vide* notification dated 30th June, 1995, the state government had constituted "the Punjab Regional and Town Planning and Development Board for the purpose of carrying out the functions assigned to it" immediately after the promulgation of the Act. The Board has not been superseded. It exists. It is also beyond dispute that the government had constituted "the New Town Development and Planning Authority for Anandgarh" under S. 31(1) of the Act,—*vide* notification dated 20th May, 1999. In this notification, it was expressly provided that "all the powers of the Punjab Urban Planning and Development Authority relating to establishment of the new town of Anandgarh under the Punjab Town and Regional Planning and Development Act, 1995 shall be exercised by the New Town Planning and Development Authority for Anandgarh."

(48) On a perusal of the above, it is clear that even the state government has itself acknowledged the application of the provisions of the 1995 Act. The functions under the Act have been specifically assigned to the Authority. The plea of Mr. Mattewal that the Act is not even attracted is, thus, apparently untenable.

(49) On a consideration of the 'aims and objects' as also the provisions, it is clear that the Act regulates the process of urbanisation. In a case involving the establishment of a new town and its planned development, it is applicable at the threshold. It is the first step on the ladder. The provisions are attracted at the initial stage of selecting the site for the new city. The mandate of the Act has to be followed even while making choice.

(50) The first question is accordingly answered against the respondent State of Punjab.

Re. (ii)—Have the provisions of the 1995 Act been followed in the

present case ? Does the selection of the site for setting up the city of Anandgarh conform to the requirement of the statute ?

(51) Despite the first question having been answered in favour of the petitioners, it remains to be seen as to whether or not the respondents have complied with the requirements of the Act. The answer should determine the decision of the dispute. If it is found that the dictates of law have been duly carried out, the action shall be in confomity with the statute. However, in case it is held that the mandate of law has not been honoured, the action of the government shall inevitably face a question mark.

(52) What is the position ? Factually, it was conceded before us that the matter regarding 'Anandgarh" was never referred to the Board. Why ? The primary explanation was that the Act is not applicable. This plea, as already observed above, is not tenable. What more ?

(53) Factually, the existence of the Board is admitted. Yet no reference was made. In fact, it was conceded that the state government had constituted the Development Authority. The said Authority had further set up a Planning Committee on 27th August, 1999. This Committee had examined the matter. It had considered three sites for the new City. It had forwarded its recommendations to the Chief Town Planner. He had considered the recommendations made by the Committee. After examination of the matter, he had selected the site. Then the papers were placed before the State Cabinet. On 12th January, 2000 the Cabinet had approved the proposal of the Town Planner. On 24th February, 2000, the Authority had requested the state government to acquire the land. The impugned notifications were issued on 13th March, 2000 under S. 4 of the Land Acquisition Act, 1894.

(54) Mr. Grewal, learned counsel for the petitioners contended that under the provisions of the Act, the Board alone could have selected the site for the new town. In the present case the respondents have not been consulted the Board. The site for the city having not been selected by the appropriate authority, the notifications for acquisition of land which have been issued for setting up the new town, cannot be sustained. On the other hand, Mr. Mattewal learned Advocate General for the State of Punjab contended that the government can acquire land under Section 4 of the Land Acquisition Act, 1894, without resorting to the provisions of the 1995 Act. Consultation with the Board is not a condition precedent for the acquisition of land. He also submitted that even if the Act applies, the provisions are merely directory in nature. The state government has an option to consult the Board or to ignore

it. A non-compliance with the Act shall not invalidate the proceedings for the acquisition of land. Is it so ?

(55) Before proceeding to consider the respective submissions of the counsel, it would be apt to notice the relevant provisions of the Act.

(56) Section 3 provides for the establishment of the Board. It provides that "the state government shall, by notification in the official gazette, establish for the purposes of carrying out the functions assigned to it under this act, a Board to be called....." Section 4 prescribes the constitution of the Board. It shall consist of a chairman, a vice chairman, a member Secretary and not more than 12 *ex-officio* members to be nominated by the State Government. Not "more than 3 non-official members" have to be *"nominated from amongst the persons having special knowledge or practical experience in matters relating to housing engineering regional and town planning development and management thereof."* (emphasis supplied)

(57) Thus, the Board is a statutory body created by the Act. The Board consists of a number of persons who have knowledge and experience of administration and Town Planning etc. The provision has a purpose to serve. It aims at constituting the Board in such a manner that it has experts in the fields of housing, engineering and town planning etc. to 'help' and 'guide' the administration.

(58) The purpose is obvious. If the recent happenings in the country are any indication, it is essential to carry out geological studies of the area and conduct surveys before selecting the site for a city. Every place cannot be suitable for the multi-storeyed monsters of steel and cement that are coming up at different places in the country. Nature is beautiful. But it demands obedience to its ordinances. When violated, the earth erupts and we have earthquakes. Man cannot continue to 'pick nature's pocket'. He must discipline himself. Recognising the imminent need for a multi-disciplinary consideration, the legislature has rightly provided for the association of experts in the Board.

(59) What are the functions assigned to the Board ?

(60) As already noticed, the statement of 'objects and reasons' indicates the legislative intent. Firstly, it provides for the creation of the Board and other bodies. Secondly, it indicates the purpose. Urban development and establishment of *new towns* are clearly the declared objectives.

(61) Section 14 delineates the functions of the Board. It lays down that the duty of the Board shall be to "advise the state government and to guide and direct the planning agencies, with respect to matters relating to the planning, development and use of Urban and Rural land in the state, and to perform such functions as the state government, from time to time, assigns to it". Clause 2 begins with the following words :—

> "In particular and without prejudice to the generality of the foregoing provisions, the board may and shall, if required by the state government—
>
> (a) Determine the regions, cities, town, or a part of a city or a site for new town for preparation of the original plans or master plans;
>
> (b) Direct the preparation of the regional plans or Master plans or other documents necessary therefor to be prepared by any of the planning agencies;
>
> (c) Undertake, direct or advice on all matters pertaining to the coordination in the planning and implementation of physical development programme;
>
> (d) Collect, maintain and publish statistics and monographs on Regional and Town Planning and perform any other functions which are supplemental, incidental, consequential to any of the functions referred to in this sub-section or which may be prescribed."

(62) Under S. 15 the Board is competent to "associate with itself in such manner and for such purpose as may be prescribed any person whose association or advice it may require in performing any of its functions under the Act." Under S. 16, the Board can "from time to time appoint one or more committees for the purpose of securing efficient discharge of its functions."

(63) A perusal of the above provision shows that the Board has and can even associate experts. It can constitute committees and get help to ensure efficient performance of its functions. The state government and the other agencies have to act on the advice and under the guidance of the Board in all matters relating to urban planning and development. In particular, the legislature has conferred the power to determine the "site for a new town" on the Board.

(64) Mr. Mattewal was at pains to point out that the state government has a discretion. It may or may not seek the advice of the board. It is only when the state government decides to take the advice that the board has to tender it. In case, the state government decides not to consult the Board, it commits no illegality so as to entitle the citizen to complain or the court to intervene. Is it so ?

(65) Section 14 begins with the expression—"subject to the other provisions of the act....." Immediately, the question that arises is—"Does the statute make any other provision which may be relevant for the controversy in the present case ?"

(66) Mr. Grewal has referred to the provision contained in Section 56 of the Act. It is relevant and deserves to be noticed. It reads thus :

> **Declaration of planning areas**—(1) "the Board may, from time to time by notification in the official gazette, declare its intention to specify any area in the state to be a regional planning area, a local planning area or a site for a new town."
>
> (2) Before making the declaration under sub section (1) the board may take into consideration such matters as may be prescribed.
>
> (3) Every notification published under subsection one shall define the limits of the area to which it relates.

(67) Another fact, which deserves notice, is that the Rules have been framed under the Act. These are called—the "Punjab Regional and Town Planning and Development (general) Rules, 1995". Rule 22 prescribes the matters that have to be considered in specifying a planning area. It reads as under :—

> Before making a declaration under sub-section (1) of Section 56 for specifying any area to be a planning area the designated Planning Agency shall take into consideration all or any of the following matters, namely :
>
> (a) Administrative boundary limits that is District, Tehsil, Block, Municipal area, Village etc. Limits;
>
> (b) Geographical features, that is physiography, climate, water, soils and other physical resources;
>
> (c) Means of communication and accessibility;

(d) Distribution of population that is present and future;

(e) Industrial location and growth trends;

(f) Economic base and commercial activities;

(g) Preservation of historical and cultural heritage;

(h) Urban expansion and periphery management;

(i) Ecological and environmental balance;

(j) Balanced regional development of the state;

(k) Dispersal of economic activities to alleviate pressure on large cities; and

(l) Any other matter which the board may consider appropriate.

(68) It is, thus, clear that the decision regarding the site for a new city or town has to be taken by the Board. While doing so, the factors as indicated in Rule 22 have to be kept in view. If the provisions of Sections 14, 56 and rule 22 are read together and construed harmoniously, it is clear that the decision regarding the selection of the site for a new town has to be taken by the Board.

(69) There is another aspect of the matter. A perusal of Section 56 shows that the Board has to issue a notification regarding the selected site. It has to invite objections and suggestions. Clause (4) of Section 56 *inter alia* provides that "any person .....may, within 60 days from the date of the publication of the notification under sub-section (1), submit any objections or suggestions, in writing relating to anything contained in that notification, to the Board and the Board shall consider all such objections and suggestions". It is thus, clear that the duty to invite and consider the objections or suggestions is placed exclusively on the Board.

(70) Still further under clause (5) the Board alone has been empowered to decide the objections. It has been *inter alia* provided that after considering the objections, the Board may "by notification in the official gazette—(a) declare the area with or without any modification to be a regional planning area, a local planning area or a site for a new town, as the case may be; (b) and specify the name of the regional planning area or the local planning area or a site for the new town, as the case may be" (emphasis supplied).

(71) The provision is clearly indicative of the legislative intent. Not only that a duty has been imposed on the Board to consider the

objections but even the power to give the name to the site vests in it. In a nutshell the provision authorises the Board to select the site for a new town. Notify it. Then it is under a duty to call, question and consider. The function is not merely consultative or purely advisory. It is almost adjudicatory. The provision is not directory but mandatory. The plain language clearly militates against the plea raised on behalf of the respondents.

(72) Clause (6) primarily deals with the situation after the publication of the notification in the official gazette. It lays down that "no person shall, on or after publication of public notice under subsection 5 and till the date the Regional Plan or the Master Plan comes into operation under Section 64 or under Section 75, as the case may be, institute or change the use of land for any purpose or carry out any development in respect of any land without the previous permission of the competent authority and the provisions of Sections 67 and 68 *mutatis mutandis* shall apply to the grant of such permission."

(73) The provision virtually lends finality to the opinion of the Board. Under Clause 7, the power to alter the limits has been conferred on the Board. It has to, no doubt, follow the prescribed procedure. But the power vests in the Board.

(74) Section 57 also supports this conclusion. It authorises the board to "designate Planning Agency" for the planning area declared by it. By virtue of the provisions of Section 58 the designated Planning Agencies have to work "under the overall directions and control of the Board". The agency functions "subject to and in accordance with the directions of the Board". Thus, the function of the Board is not merely advisory.

(75) In view of the above, it is clear that Section 14 is not exhaustive of the duties and functions of the Board. In fact, the Board exercises various functions, which are administrative as well as adjudicatory.

(76) Still further, under Section 61 the Board is authorised to get the planned area surveyed. It can also get the maps prepared. It can ask for the "report of the surveys and the Regional Plan and such other documents, maps and information as it may deem fit for illustrating or explaining the provisions of the Regional Plan." Under Section 63 the agency designated by the Board has to prepare the Regional Plan by following the prescribed procedure. However, under clause (5) the Board has been given the power to refer the draft regional

plan to a "committee to be nominated by it in this behalf and the committee so nominated shall submit its report to the Board." Thereafter the Board forwards the report to the government with its own recommendation for its consideration. It is true that the government may not ultimately accept the report or the recommendation. But the statute lays down a procedure. It has a purpose. The law requires the consideration of the matter at different levels. The Board has persons who are specially equipped for the job. The mere fact that the government may not be bound by the report of the Board cannot mean that the prescribed procedure can be just by passed. In any case, the existence of the Board cannot be overlooked.

(77) It is in this background that the validity of the impugned notifications has to be examined.

(78) Mr. Mattewal contended that the government has the power to acquire any land. Section 4 of the Land Acquisition Act, 1894, authorises the State to compulsorily acquire land for a public purpose. The citizen gets the chance to file objections under Section 5-A. Thus, there is no illegality in the action of the Government. Is it so ?

(79) It is an accepted principle of law that if a particular thing is required to be done in a particular way, it must be done in that manner alone and no other. Equally, if a statute imposes a duty or confers a power on a particular authority, it must be discharged by that authority and none other. Has this basic principle been followed in the present case ?

(80) Land can undoubtedly be acquired for a public purpose. In the present case, the declared purpose is the setting up of the new town of Anandgarh. First of all, the site has to be selected. Then the land may have to be acquired.

(81) The statute requires the Board to select the site. It must be done accordingly. It lays down the procedure. It must be followed. This has admittedly not been done.

(82) What has been actually done in the present case ? It is the admitted position that the Board did not select the site. The matter was not even placed before it. There was not even a pretence of consultation. The decision was taken by the Government on the recommendation of the Chief Town Planner and the committee. The authority too was not appointed by the Board. It was appointed by the government. It had not consider or examined the matter under the directions of the Board. It had considered three sites and made its recommendation to the Chief Town Planner. Thus, the mandate of law has not been followed.

(83) It was contended that since the landowners had the opportunity to file objections, the petitioners have no cause for grievance. Is it so ?

(84) Even this contention cannot be accepted. As mentioned above, under the provisions of Section 56 of the 1995 Act, the Board has to declare its intention regarding the site for a new town in the official gazette. Thereafter 'any person' can file objections. Even an individual, any agency of the state or a public or private institution can lodge its protest and put forth its suggestions. The Board has to consider the objections/suggestions and proceed in accordance with the mandate of Section 56. Thereafter, the Board can designate an authority. To conduct survey. To work according to its directions.

(85) All this has been given a go-by in the present case. The right of 'any person.....or institution' to object to the selection of site, to have the objections considered by a duly constituted Board which has persons with special knowledge and experience in the field of urban planning and development has been clearly defeated. It is no doubt true that under Section 5-A, the persons interested in the land proposed to be acquired can raise objection to the acquisition. Surely, the man in the street cannot have that opportunity. Still further, even the landowner cannot raise objections about the selection of the site while filing objections under Section 5-A. Moreover, the objections are submitted to the Land Acquisition Collector. He may forward the objections with his own comments to the government. Clearly, the scope of the objections under Section 5-A of the Land Acquisition Act, 1894, and the consideration thereof by the Land Acquisition Collector is totally different from those under Section 56 of the 1995 Act, which have to be considered by the Board. The content and purpose are totally different. One is in no way a substitute for the other.

(86) Still further, in the present case, it is the admitted position that the state has already selected the site on the recommendation of the Chief Town Planner. What objection can a person now raise ? Hardly any. Who would hear a citizen who says that the site is not suitable? No one.

(87) Mr. Mattewal placed strong reliance on the decision of their Lordships of the Supreme Court in "*State of Tamil Nadu and others* v. *L. Krishnan and others*" (1), to contend that the State has plenary power to acquire land. The exercise of power is not fettered by the 1995

(1) (1996) 1 SCC 250.

Act. Reliance was particularly placed by the learned Advocate General on the following observations in Para 16 of the judgment :—

> "In such circumstances, it would not be right to contend that unless a final and effective scheme prepared in accordance with the provisions of Chapter VII of the Housing Board Act is in existence, the Government cannot issue a notification under Section 4 of the Land Acquisition Act for acquiring the land for execution of the schemes by the Housing Board".

(88) Relying on the above quoted observations the counsel contended that the impugned notifications could not be challenged merely because the State had not consulted the Board. The state's power to acquire remains unaffected. Is it so ? What is the real ratio of the decision ?

(89) The court was examining the case in the light of the peculiar provisions of the Tamil Nadu State Housing Board Act, 1961. Section 35 *inter alia* provided as under :—

> "(1) Subject to the provisions of this Act, the Board may, from time to time, incur expenditure and undertake works for the framing and execution of such housing or improvement schemes as it may consider necessary.
>
> (2) The Government may, on such terms and conditions as they may think fit to impose, transfer to the Board the execution of any housing or improvement scheme not provided for by this Act, and the Board shall thereupon undertake the execution of such scheme as if it had been provided for by this Act."

Their lordships also noticed the provision of Cl. (3) in the following words :—

> "Sub-section (3) empowers the Board to take over for execution any housing or improvement scheme undertaken by a local authority on such terms and conditions as may be agreed upon. The Board shall execute such schemes as if it is provided by the Housing Board Act. Section 36 empowers the Government to transfer to the Housing Board."

(90) Section 36 in the words of their lordships provided that "on such transfer and direction by the Government, the Board shall execute the said scheme as if it had been provided for by this Act".

(91) On an examination of the provision, their lordships were pleased to hold in Para 14 that the "duty of the Housing Board does not begin and end with executing the housing or improvement schemes prepared by it under the Act. The Housing Board is under an obligation to carry out certain other schemes also as are provided in these sections". After noticing the provisions in extenso, it was observed as under :—

> *"These provisions make it abundantly clear that the duty of the Housing Board is not merely the execution of the housing or improvement schemes prepared and published by it under the Act but extends to executing other schemes as well, as are made over to it or agreed to be undertaken by it.* Now, when Section 35(2) speaks of transfer to the Board the execution of any housing or improvement scheme not provided for by this Act, it certainly cannot mean a scheme prepared in accordance with the provisions of the Housing Board Act. Moreover, while transferring the scheme to the Board, the Government is empowered to impose such conditions as they may think fit to impose. Such terms and conditions are not specified in the Act but lie within the discretion of the Government. Similarly, when sub-section (3) of Section 35 speaks of a scheme undertaken by a local authority to be made over to the Housing Board for execution, it cannot again mean a housing or improvement scheme prepared in accordance with the Housing Board Act. Here again, the taking over of the scheme by the Housing Board is subject to such terms and conditions as may be agreed upon by both. Section 36 indeed discloses that what is entrusted to the Housing Board is the job of clearance or improvement of any slum area. *The Government while directing the Board to undertake the clearance or improvement of a particular area can also direct the Board to frame and execute 'such housing or improvement scheme under this Act as the Government may specify' and the Board is obliged to execute such scheme as if such scheme is prepared by the Act" (emphasis supplied).*

(92) A perusal of the above observations clearly shows that it was in view of the fact that the government was competent under Section 35 to direct the Housing Board to execute the schemes which were not prepared or envisaged by it, that the state could proceed to acquire land under Section 4 of the Land Acquisition Act. Despite being asked, the Counsel was unable to refer to any provision akin to Section 35 in the 1995 Act. Thus, the basic ground on which the decision of the High

Court was reversed by their lordships is non-existent in the present case. The decision is clearly distinguishable and the counsel can derive no advantage from it.

(93) The counsel for the petitioner referred to the provisions of Sections 56 to 78 to contend that the Act promises certain rights to the citizen. The legislature affords certain protection. The executive cannot take away what the law gives. Mr. Grewal appears to be right in his submission. The provisions lay down the procedure for preparation of the Master Plan. These confer rights on the citizen. These have to be followed before the final step of acquisition can be taken. This has not been done in the present set of cases.

(94) Mr. Mattewal referred to Section 42 to contend that the government is entitled to acquire land at the asking of the Authority without the intervention of the Board. Is it so ?

(95) Section 42 does relate to the acquisition of land. It provides *inter alia* that "when any land....is required for the purposes of the Authority under this Act, the State Government may, at the request of the Authority proceed to acquire it under the provisions of Land Acquisition Act, 1894, and on payment by the authority of the compensation awarded under that act and of any other charges incurred in acquiring the land, the land shall vest in the authority". Apparently, the provision empowers the state to acquire the land for the Authority. On payment of compensation and other charges, the property vests in the Authority. However, a closer scrutiny shows that the contention is not tenable.

(96) Section 2(d) defines the authority to mean "the Punjab Urban Planning and Development Authority constituted under Section 17 or a Special Urban Planning and Development Authority constituted under Section 29 or New Town Planning and Development Authority constituted under Section 31." Thus, it is clear that an Authority can be created by the government under Section 31. Such an authority is created for the purpose of planning and developing a new town. In other words, whenever a new town has to be planned and developed, the State government can create an Authority.

(97) A reference to the provision of Section 31 is also instructive. It provides that "where the State Government is of opinion that object of proper planning and development of the site of a new town will be best served by entrusting the work of development thereof to a Special Authority, instead of the Punjab Urban Planning and Development

Authority, it may, by notification, constitute a Special Authority for that site to be called the New Town Planning and Development Authority and thereupon, all the powers and functions of the Punjab Urban Planning and Development Authority relating to the development of that site of the new town under this Act shall be exercised and performed by such New Town Planning and Development Authority." Clause (2) provides that such an Authority shall be the body corporate and a local authority having perpetual succession and a common seal with power to acquire, hold and dispose of property. Section 43 empowers the Authority to dispose of the land subject to any direction by the State Government.

(98) The purpose of the provision is obvious. It empowers the State government to constitute a Special Authority for the planning and development of a new town. The provision also provides for its functions. It may also be mentioned that under Section 181, the Board has been empowered to frame regulations "to carry out the purposes of" the Act.

(99) On a cumulative consideration of the provisions of the Act, it appears clear to us that the Act entrusts the task of selecting the site for a new town to the Board. Thereafter, a Master Plan has to be prepared in accordance with the prescribed procedure. After the Master Plan is ready, the government is competent to constitute a Special Agency for the planning and development of the new town. At the asking of this authority, the government can proceed to acquire the land. Thus, despite the provision for the constitution of a Special Authority, the Board cannot be by-passed. The selection of site is the job assigned to the Board. This is so obviously because it has and can associate experts. It can get assistance from others.

(100) There is another aspect of the matter. Let us assume for the sake of argument that the provisions regarding the functions of and the selection of site by the Board are merely directory. The final decision has to be taken by the government. Even then, in our view, the position is not altered.

(101) The executive has to follow the law. It must follow the prescribed course. Even provisions, which are directory in nature, have to be substantially complied with. In the present case, it is the admitted position that the Board exists. Despite that it was not even consulted. Not even associated with the task. Why ? There is no answer. Neither in the pleadings nor at the hearing of the case.

(102) In fact, it is the admitted that the Chief Minister had made the announcement regarding Anandgarh on 14th April, 1999. The matter had not been considered by any one before that. Thereafter, the announcement was treated as the final decision of the matter. The Board was not even informed. There was a blatant indifference to the statute. It cannot be approved.

(103) Mr. Mattewal contended that the Board's advice is not binding. Thus, failure to consult is of no consequence.

(104) Let us assume that the government has the right to disagree with the Board. Can it do so arbitrarily ? Without assigning any reason? We think not. Take for instance a case where the Board opines that the site is earthquake prone. It is not suitable for a new city. Surely, the government shall not be able to overrule the Board without assigning any reason. If it does so, the action shall be a foolproof formula for failure. It can be challenged as being arbitrary. The court has the power to prevent such a course of action. It shall not fail to call foul.

(105) Faced with this situation, Mr. Mattewal contended that the provisions of the 1995 Act prescribe a highly time consuming procedure. If these were literally followed, it would have taken the State at least 6 years to finalise the matter. Learned counsel referred to the various provisions to support the submission.

(106) The argument is apparently attractive. The citizen faces delays everywhere. Everyday. It is in public interest that the State takes steps to expedite action. To avoid delay. Yet, the argument based on pure expediency cannot be sustained. It carries an inherent danger. If accepted, it would provide the State with a standard *alibi* in every case where express provisions of law are ignored. Inevitably, 'time' shall prove to be the graveyard of all the laws. Mere inconvenience to the executive shall become a valid excuse. No court can allow this to happen. The submission cannot be supported or sustained on any principle whatsoever. It is, consequently, rejected.

(107) Under our system of jurisprudence, the executive is under a duty to act according to the terms of the statute. Its actions have to conform to the relevant provisions of the Act. In a society governed by the rule of law, the laws and not men, are supreme. These have to be followed at all costs. In all cases. The executive cannot depart. A cumbersome procedure or delay in disposal of the matter cannot be a ground to ignore the prescribed procedure or the mandate of law.

(108) Lastly, Mr. Mattewal contended that the petitioners have not even alleged that the site selected by the respondents is not suitable for establishing the new city—Anandgarh. Thus, no ground for interference is made out. Is it so ?

(109) In CWP No. 9143 of 2000, it has been specifically alleged that there is an acute scarcity of water in the area. It has been stated that even Chandigarh is facing shortage of water. It has been also pointed out that 20% of the land proposed to be acquired is under seasonal streams like 'choes and nadies'. The 'low-lying sandy tract is unfit for construction'. Still further, there is an Air force Missile base in close proximity. It is alleged that an objection regarding the suitability has been raised by the defence forces. Reference has been made to a report—"IAF shoots down proposal to relocate Missile base", which had appeared in the Indian Express of 29th April, 2000. A copy of the report has been produced as Annexure P-21 with the petition. On this basis, the petitioners maintain that the selected site is not suitable for the new town.

(110) In the reply filed on behalf of the respondents, it has been averred that the site is suitable as it is well connected. The agricultural productivity is low. There is no problem of water logging. The gradient being good, the drainage shall be easy. The haphazard growth around Chandigrh shall be checked. It will attract investment from the non-resident Indians and shall be developed without any 'assistance from the State budget'.

(111) It is clear that the suitability of the site has been questioned. The matter had to be considered by experts. The Board, which exists to examine these issues, was surprisingly not even consulted. Why ? There is no answer. We wonder as to why the government adopted such an attitude. It deprived the citizen of the right to object and itself of the chance to get good advice.

(112) A fact that deserves mention is that initially, the then Chief Minister Mr. Beant Singh had propounded the idea of 'New Chandigarh'. The effort was to extend Chandigarh to the area, which has now been selected for Anandgarh. The proposal was opposed by Mr. Parkash Singh Badal, the author of Anandgarh, himself. It was reported in the press that according to Mr. Badal "there was no need for a 'New Chandigarh' as it would uproot a population of almost one lakh. Moreover Chandigarh belonged to Punjab and by establishing a 'New Chandigarh', the congress government wanted to damage the claim of Punjab over Chandigarh". Not only that. It was also said that "people

residing in the villages of which land is being acquired for 'New Chandigarh' would suffer an irreparable loss. These people had made their land fertile by hard labour by digging deep tubewells and by constructing check dams and residential houses. It would also be a big loss to the class III and IV employees working in Chandigarh as a majority of them had built their houses in the villages." These are the words from only one of the reports, which had appeared in the Tribune of 30th June, 1995. There were many such reports in different papers. Cutting from papers have been produced as Annexures on the record of various cases. Nothing was produced to suggest that the reported statement had not been made.

(113) It is true that we have a free press. No decision may normally be based on a press report only. However, the fact remains that the reports are not shown to have been controverted at any stage. Even during the course of hearing, it was not suggested that the statements had been in any way inaccurately reported. Thus, the reports, which had appeared in various papers, cannot be brushed aside as a mere figment of somebody's imagination.

(114) The petitioners have relied upon the reports to contend that the site selected for the city of Anandgarh is not suitable. This was the Chief Minister's own view.

(115) Why the change ? Where is the concern for the poor farmers or the employees, which was so vociferously expressed only a few years back, gone ? Is not Anandgarh merely the 'old wine in a new bottle' ?

(116) Mr. Mattewal contends that the land within the 'Lal Lakir' where the houses have been made is not being acquired. Thus, the poor people are not being disturbed. He also stated that the state shall provide all the civic amenities.

(117) The plea is puerile. ? The lands are tilled, amongst others, by the landless labourers. They have to live in the village. In their homes or huts. The land is being taken away by the state. Where shall they work ? What will they be able to do when the land and jobs are gone ? Nothing at all. Perforce they will have to leave. Yet, the state claims that it is looking after the weak and the needy. It shall provide the civic amenities to the persons residing in the area within the 'lal lakir'. It is merely a tall claim, which is wholly lacking in content. The 'Laxman Rekha' has been crossed.

(118) Another fact, which may be noticed here, is that the few

landowners are not the sole complainants. Even the Union of India has expressed its reservations. Mr. Ashutosh Mohanta, learned Counsel for the government of India, clearly expressed the concern of the Ministry of Urban Development in the matter. He pointed out that Mr. Jagmohan, the Union Minister, had written a letter to the State Chief Minister. It was emphasised that the city of Chandigarh and its periphery are "two distinct but closely related and interdependent entities with different functions to perform. These functions must not interchange so that both the city and its periphery maintian the distinction and are allowed to grow in a healthy manner. The city should continue to provide services in the periphery, like the day-to-day needs of agriculture, dairy and poultry products etc." The Minister also informed the Chief Minister that the experts were "recommending to UNESCO to declare Chandigarh as a world heritage city." In view of the factors delineated in the letter, the Minister suggested that **"before arriving at a final decision, an independent expert committee should be constituted to study the planning, environment, financial and other implications of the entire project."** He took pains to even suggest the names of persons who could be on the committee.

(119) Still further, even the Ministry of Defence expressed definite reservations. This was on account of the existence of the missile base in the area. The averments made in the short reply filed in CWP No. 8708 of 2000, on behalf of the Union of India, Ministry of Defence by Air Commodore S.K. Banerjee, deserve to be noticed. These read as under :—

> "In reply to Para 10(G) of the petition, it is submitted that Government of India,—*vide* Letter No. F 2(a) 65/D (Air 11), dated 4th July, 1966, has imposed restrictions over the construction of buildings or other structures in the vicinity of Air Force Installations, both occupied and non-occupied, in order to meet technical requirements and the effective functioning of modern electronic equipments. As per Govt. of India's letter, no structure/construction of any height or depth within 900 metres of any Air Force installation is permissible.
>
> It also lays down further restriction that no source of electrical disturbance within this distance i.e. 900 metres is permitted. However, this area can be suitably utilized to have Gardens/Parks/Green belt/Golf Course etc. which will avoid construction of any structure.

Keeping in view the Air Defence related needs, in terms of low crest angle, the absence of other electro magnetic radiation sources close to installation is mandatory technical requirement for smooth and effective functioning of the equipment. Only single storeyed structure beyond the distance of atleast 2-3 kilometers can be permitted. Sarpanches of the area have also been informed about the restriction over construction within 900 meters.

Air Force Station is located near Mullanpur Garibdas and was established in early sixties to protect the region from enemy attack during war. This base is strategically located to guard the Ambala, Chandigarh and Kasauli areas and also other installation of the country such as Bhakra Dam etc. This base is now fully operational and is armed with state of art missiles.

Air Force Station, Mullanpur Garibdas cannot be relocated to any other site since it would not be feasible on account of Air Defence requirements and also for security of the country. This was also explained to the Chief Administrator, Anandgarh Development Authority by Air Force Authorities during meeting at 1600 hrs. on 5th April, 2000. The Chief Administrator also agreed not to insist on shifting of Air Force Station to any other site due to operational requirements.

It is, therefore, respectfully prayed that while disposing off the writ petition, the above mentioned restrictions with regard to strategic Air Force Installations for defence of the country may kindly be considered."

(120) Mr. Mohanta also produced before us a copy of a secret letter issued by the Government of India in the Ministry of Defence on 4th July, 1966. Instructions were given to all the States regarding the "construction of buildings or other structures in the vicinity of Air Force installations". It is not necessary to notice the contents of the letter in detail. However, the State Governments were asked to abide by the restrictions.

(121) The pleas raised on behalf of the Central Government in both the statements are self-explanatory. It is clear that even the Union of India considers it appropriate that before undertaking an expensive project of a new town, the experts should be consulted. The restrictions placed by the authorities regarding construction of buildings in the

vicinity of Air force installations have to be complied with. It is unfortunate that the state government has chosen to pay no heed. We can only lament the indifference of the State of Punjab to the express provisions of law and the directions of the Government of India.

(122) Why this apathy towards experts ? There is no answer.

(123) In any case, the plea as raised on behalf of the respondents that the suitability of the site has not been challenged is not factually correct. Thus, we are unable to sustain the submission.

(124) Another fact, which deserves mention, is that Section 179 of the Act gives it an overriding effect. It *inter alia* provides that "the provisions of this Act, the rules and regulations made thereunder, shall have effect notwithstanding anything inconsistent therewith contained in other law for the time being in force". The legislative intent is clearly indicated. In matters of development, housing and establishing of new towns, the provisions of the 1995 Act have to be followed.

(125) In view of the above, it is clear that the mandate of the statute has not been followed. The requirements of law have not been fulfilled. The excuse trotted out by the state is not tenable. The interpretation sought to be placed on the statute is not worthy of being accepted. Consequently, the action of the government in selecting the site and issuing the impugned notifications for acquisition of land for the purpose of establishing the new town of Anandgarh cannot be approved.

(126) Resultantly, even the second question is answered against the respondents. It is held that the action does not conform to the requirements of the 1995 Act. It is, thus, not legal. As such, it cannot be sustained.

Re. (iii)—Have the respondents acted in violation of the provisions of the Punjab New Capital (Periphery) Control Act, 1952 ?

(127) Mr. Grewal submitted that the respondents have violated the mandate of the 1952 Act. Is it so ?

(128) Firstly, why was the Act enacted ? What does the Act lay down ? What is its mandate ?

(129) The object of the Act was "to ensure healthy and planned development of the City of Chandigarh and to prevent growth of slums

and ramshackle construction on the land lying on its periphery." Thus, it was considered necessary to have "legal authority to regulate the use of the said land for purposes other than the purposes for which it is used at present". The Act applies to "territory within 10 miles of boundary of Chandigarh".

(130) To achieve the declared objective, the Act lays down various restrictions regarding erection of buildings etc. Section 3 empowers the government to "declare the whole or any part of the area to which this Act extends to be a controlled area for the purpose of this Act." Section 5 *inter alia* provides that "no person shall erect or re-erect any building or make or extend any excavation, or lay out any means of excess to any road, in the controlled area save in accordance with the plans and restrictions and with the previous permission of the Deputy Commissioner in writing." Section 11 provides that "no land within a controlled area shall, except with the prior permission of the State Government, be used for purposes other than those for which it was used on the date of the notification under sub-section (2) of Section 3; and no land shall be used for the purposes of a charcoal kiln.....". Violation of the provision of Section 11 is an offence, which is punishable under Section 12 of the Act.

(131) On a perusal of the provisions, it is clear that no construction can be raised in the controlled area without the permission of the competent authority. No construction of buildings or excavation of land is allowed without consent. Similarly, no road can be laid. No kiln of any kind can be installed. The *status quo* is intended to be maintained. Violation attracts penalty.

(132) What is the position in the present case ? It is not disputed that the land in dispute falls within the "controlled area." It has not been even suggested that the State of Punjab has taken a written consent from the competent authority. Not even a request is alleged to have been made.

(133) In the reply filed in CWP No. 9143 of 2000, a reference has been made to the debate in the Legislative Assembly. On the basis thereof, it is pleaded that "the control against structures imposed in the periphery area were (was) not intended to permanently prohibit any development of this area." It has been admitted that "under Section 5 and 11 of the Act restrictions to the effect have been levied." However, reference has been made to Section 10 to contend that the action of the Punjab State does not violate the Provisions of the 1952 Act. Is it so ?

(134) Firstly, what does Section 10 provide ? it says—

> "Nothing in this Act shall affect the power of the Government or any other authority to acquire land or to impose restrictions upon the use and development of land comprised in the controlled area under any other law for the time being in force, or to permit the settlement of a claim arising out of the exercise of powers under this Act by mutual agreement."

(135) The provision is clear and simple. The language is unambiguous. It permits the government to acquire land. However, it does not take away the bar contained in Section 5. It does not permit the erection of buildings or making of roads ever under the garb of establishing a new town, without permission from the competent authority. That is where the whole rub lies. The government is acquiring land for the new town—Anandgarh. Has it taken the permission for raising construction and making roads ? Admittedly, not yet. Then, why go through the exercise ? Why create all the alarm ? Why make the farmers panic ? Obviously, it is all an exercise in futility. The state is surely puting the cart before the horse.

(136) The third question is answered accordingly.

Re. (iv)—Is the action of the respondents based on extraneous considerations and vitiated by mala fides *?*

(137) Mr. Grewal contended that the bureaucrats and politicians have bought large pieces of land in the area which is being acquired. All in anticipation of it's being taken over by the state for the city of Anandgarh. At fabulous prices. The rich would become richer. The poor shall be deprived of the means of livelihood.

(138) The respondents have admitted the fact that some people already owned and the others have bought land. In their own names or in the name of their family members. Details have been given. Even the date of purchase by different people have been given. However, the respondents have emphatically controverted the allegations of *mala fides*. It has been stated that the land had been mostly bought long back when the project was not even under contemplation.

(139) We have carefully perused the pleadings and considered the arguments. It is true that some people have purchased land in the area. It may also be reasonable to suspect that this was done in the hope of getting substantial compensation. The Press has branded it as

a "Land Lottery". For some it may truly be so. There may definitely be room for suspicion. In some cases the suspicion may even be well founded. Still, it is mere suspicion. A finding of *mala fides,* which is almost akin to a quasi-criminal charge, cannot be given on mere suspicion. It must rest on a surer foundation.

(140) From the material on record, it is clear that the land regarding which the details have been given in the petitions is only a part of the total area under acquisition. Still further, it has not been shown that people who had purchased property, even in the recent past, had any role to play in the final decision as taken by the government. Moreover, a citizen is free to buy any available property. The rich have a right to invest. Even to make profit. The mere acquisition of land by some well-placed persons, in the circumstances of this case, cannot vitiate the entire proceedings. Even if the affair be smelly, it is not clearly stinking. In this situation, we feel inclined to give the respondents, the benefit of doubt. We do so.

Re. (v)—Have the petitioners made out a case for interference by this court under Article 226 of the Constitution of India ?

(141) Mr. Grewal contended that the State of Punjab is facing acute financial constraints. It is finding it difficult to meet the demand for payment of compensation to persons whose land had been acquired many years back. It does not have the money to pay for the huge area of land, which it is now proceeding to acquire. It was also submitted that the government has erred in bypassing the Board and in not following the mandate of the 1995 Act. He further submitted that the provisions of the Periphery Control Act, 1952, have been violated. Thus, the court should intervene and annul the proceedings.

(142) Mr. Mattewal contended that the project shall generate its own funds. The provisions of the 1995 Act were not followed to avoid delay and to expedite action. He further submitted that there will be no violation of the prescribed norms in the controlled area. The permission of the competent authority shall be obtained before any construction is raised. The State has already gone fairly far. The jurisdiction is discretionary. The court should, thus, lean in favour of the state. Is it so ?

(143) It is true that plans and projects are primarily the State's prerogative. It is equally true that fiscal difficulties are a national phenomenon. The State of Punjab is no exception. Yet, a few facts stare the court in the face. We cannot shut our eyes.

(144) The fact that the Punjab State is facing financial problems is well known. The court is regularly getting petitions from persons whose lands were acquired many years back. Invariably, the complaint is that the compensation has not been paid. In the present case, it is clear that the State Government is proceeding to acquire about 10,000 acres of land. The ultimate target is about 37,000 acres. Though the petitioners suggest a much higher figure, the tentative and average rate of compensation may be fixed at about rupees 7 lacs per acre. Then there would be the various statutory additions like solatium etc. The average rate of compensation could be more than rupees 10 lacs per acre. At this rate, the approximate amount of compensation that the State Government shall have to pay to the landowners would be in the region of Rupees 1000 Crores. The State surely does not have so much of money. Nothing was placed on record to suggest that the State has the money to pay. Even the latest budget figure, as reported in the Papers, do no provide any cause for optimism.

(145) In fact the court is getting petitions from citizens whose land was acquired years back. The usual complaint is that the compensation has not been paid. Even in cases where the provisions of Section 17 had been invoked. The reason is known to the state. It is too obvious. Yet, it has chosen to embark upon an ambitious plan for a new town. How shall it pay ?

(146) Mr. Mattewal submitted that the Government will sell the plots and collect the funds. This is a hope. It may even come true. However, the State cannot proceed to deprive people of their property without having the resources to pay for it. It cannot proceed on mere hope. The plan must be realistic. The State cannot act on a mere dream. At the present moment the state is finding it difficult to keep its head up. It is not able to keep its expenses down. It should not proceed to deprive people of their property on a mere promise to pay. Those who are deprived of their land shall have to look for alternative abodes. They will have to buy land at some other place. They would necessarily need money without any loss of time. The State doesn't have it. An acute problem appears to be imminent. Without solution, the State must not proceed.

(147) Still further, it deserves mention that the plots can be sold only after the area is developed. Infrastructure is provided. The roads are laid. Potable water is provided. All this shall cost. The money shall have to be spent before any inflow can start.

(148) Mr. Mattewal was at pains to point out that only a

microscopic minority of landowners have approached the court to challenge the notifications. Majority of the landowners were satisfied with the action of the state government. He pointed out that the proposed holding of the persons who had approached the court was in the region of about 54 acres only. The proceedings should not be annulled at the instance of a few busybodies.

(149) On consideration of the matter, we find that the dispute cannot be decided on the basis of numbers. The issues have to be settled on principles. Even the poor who may not have much land can have a good and justifiable cause. They cannot be denied relief merely because the majority is on the other side. The court does not count heads. It has to primarily test the case on the touchstone of the statute. It has to examine the legality and propriety of the state action on settled principles of equity and fair play.

(150) Taking the facts cumulatively, we are unable to find any ground to deny relief to the petitioners even in the exercise of the discretionary jurisdiction under Art. 226 of the constitution.

(151) Mr. Grewal had attempted to raise a half-hearted plea that the State had no jurisdiction to set up a new town. Since the plea was not pressed, we do not consider it necessary to go into it.

(152) No other point was raised.

(153) In view of the above, our conclusions are :—

(i) Nature is beautiful. But it demands obedience to its ordinances. When violated, the earth erupts and we have earthquakes. Man cannot continue to 'pick nature's pocket.' He cannot raise multi-storeyed monsters of steel and cement at every place. All places cannot be suitable for a new city.

(ii) Recognising the need for a multi-disciplinary consideration, the legislature had enacted the "Punjab Regional and Town Planning and Development Act, 1995" and provided for the constitution of the Board and other Authorities. The Board consists of persons who have knowledge or experience in the field of engineering, housing, town planning and urban development. It can even associate others for the efficient performance of its onerous functions.

(iii) While embarking upon the project of the new town— 'Anandgarh', the state has not shown even a scant regard

for the salutary provisions of the statute. It has acted against the express letter and spirit of the Act. It has not allowed the Board to perform its functions. In particular, it has not let the Board 'select the site' for the new city. It has acted in contravention of the statute.

(iv) In the process, the government has deprived the citizen of the opportunity to put forth the objections/suggestions and denied itself the benefit of good advice.

(v) The mere fact that the government finds the procedure prescribed by the Act and the Rules to be lengthy or cumbersome and such as can result in delay cannot be a ground to avoid obedience to the provisions of law. The courts cannot allow 'time' taken in complying with the provisions to become the graveyard of good laws or people's rights.

(vi) The state government has also failed to consider the objections raised and the relevant suggestions made by the Union Ministries of Defence and Urban Development. Its action is likely to finish the farms and farmers who live in the periphery of Chandigarh.

(vii)The state government has proceeded to acquire land without obtaining permission from the competent authority under the provisions of the Punjab New Capital (periphery) Control Act, 1952 and the Rules. Thus, it has proceeded to acquire land without being entitled to raise any construction or even lay any roads. The entire proceedings can prove to be an exercise in futility.

(viii)The courts do not count heads. The mere fact that the petitioners are few in number or that their holdings are small is no ground to deny them the relief as prayed for in these petitions. Even the poor are the God's children.

(ix) There is a suspicion surrounding the action of the state government in acquiring the land. There is a smell. But not a stink. Suspicion is not enough to uphold the plea of *mala fides*. Thus, the respondents are entitled to a benefit of doubt when the entire acquisition is challenged on the ground of extraneous considerations.

(x) The state is undoubtedly trying to keep its head up and the expenses down. However, its ability to gather the resouces

to pay for the land and to develop it, is extremely suspect and it's wisdom doubtful.

(154) In view of the above, it is held that the site for Anandgarh was not selected in accordance with law. That being so, the impugned notifications by which the land is being acquired for the new town, do not conform to the requirements of the statute. These are illegal. Resultantly, the writ petitions are allowed. The impugned notifications issued on 13th March, 2000, Annexures P-1 to P-29 issued under Section 4 of the Land Acuisition Act. 1894 are set aside. However, in the circumstances of these cases, we make no order as to costs.

R.N.R.

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