

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 5088 of 2018

1. Chotanagpur Diocesan Trust Association (CNDTA), a Company incorporated under the Companies Act, having its registered office at Old Hazaribagh Road, P.O. Church Road, P.S. Lower Bazar, District Ranchi, through its Ex-officio Chairman, Bishop of Chotanagpur, Rt. Rev. B. B. Baskey, son of Late Paulus Baskey, aged about 58 years, resident of House No. 122, Bishop's Compound, Old H.B. Road, P.O. Church Road, P.S. Lower Bazar, District Ranchi.
2. Rev. Arun Barwa, son of Prabhu Prakash Barwa, aged about 53 years, Secretary, Chotanagpur Diocesan Trust Association (CNDTA), resident of House No. 176, St. Paul Church Compound, P.O. & P.S. Chutia, District Ranchi.

... Petitioners

Versus

1. State of Jharkhand, through Chief Secretary, Government of Jharkhand, Project Bhawan, P.O. Dhurwa, P.S. Jagarnathpur, District Ranchi.
2. Executive Magistrate, Hazaribagh, P.O, P.S. & District Hazaribagh.
3. Bhavesh Sumit Bhengraj, son of S. E. Bhengraj, resident of Village Hurhuru, Patratu, P.O. & P.S. Patratu, District Hazaribagh.

... Respondents

WITH

W.P. (C) No. 630 of 2019

M/s VSRS Construction through its Partner Vikash Agrawal, Aged about 36 years, son of late S.P. Agrawal having office at House No. 227, Road No.6 West Layout Area, P.O. & P.S. Sonari, Town Jamshedpur, District-East Singhbhum.

... Petitioner

Versus

1. The State of Jharkhand
2. Deputy Commissioner, Saraikella Kharsawan, P.O. & P.S. Saraikela Kharsawan, District-Saraikela Kharsawan.
3. Additional Collector, Saraikella Kharsawan, P.O. & P.S. Saraikela Kharsawan, District-Saraikela Kharsawan
4. Circle Officer, Gamaharia, P.O. & P.S. Saraikela Kharsawan, District-Saraikela Kharsawan.
5. District Sub Registrar, Saraikella Kharsawan, P.O. & P.S. Saraikela Kharsawan, District-Saraikela Kharsawan.
6. Adityapur Notified Area Committee through its Executive Officer, Adityapur, P.O. & P.S. Saraikela Kharsawan, District-Saraikela Kharsawan.

... Respondents

**WITH
W.P. (C) No. 2479 of 2019**

Most. Bhagwati Devi, wife of Late Ghanshyam Das Kedia, aged about 70 years, resident of Pachamba, P.O., P.S. and District Giridih.

... Petitioner

Versus

1. State of Jharkhand, through the Secretary, Department of Registration, Revenue and Land Reforms, Government of Jharkhand, P.O. Dhurwa, P.S. Jagarnathpur, District Ranchi.
2. Deputy Commissioner-cum-District Registrar, Giridih, P.O, P.S. & District Giridih.
3. District Sub Registrar, Giridih, P.O, P.S. & District Giridih.

... Respondents

**WITH
W.P. (C) No. 7526 of 2023**

1. Birendra Narayan Deo, aged about 71 years, Son of Late Byas Narayan Deo, Resident of Village Senadoni, P.O. Senadono, P.S.- Giridih Muhfasil), District- Giridih (Jharkhand).
2. Vikram Kumar Deo, aged about 46 years, Son of Birendra Narayan Deo, Resident of Qr No. 48-1, Street-13, Sector-9/B, P.O.- Sector-9, P.S.- Haria, District- Bokaro (Jharkhand).

... Petitioners

Versus

1. The State of Jharkhand, through the Chief Secretary, at Project Building, Dhurwa, P.O. Dhurwa, P.S.- Jagarnathpur, District- Ranchi (Jharkhand).
2. Secretary, Department of Revenue Registration and Land Reform, Jharkhand, at Project Building, Dhurwa, P.O. Dhurwa, P.S.- Jagarnathpur, District- Ranchi (Jharkhand).
3. Inspector General of Registration, Jharkhand, at Project Building, Dhurwa, P.O.- Dhurwa, P.S.- Jagarnathpur, District- Ranchi (Jharkhand).
4. Deputy Inspector General of Registration, Jharkhand, at Project Building, Dhurwa, P.O. Dhurwa, P.S.- Jagarnathpur, District- Ranchi (Jharkhand)
5. Deputy Commissioner -cum-District Registrar, Giridih, at P.O. & P.S.-Giridih, District- Giridih (Jharkhand).
6. Branch Manager, Indian Bank, Giridih Main Branch, Giridih, at P.O. & P.S. - Giridih, District- Giridih (Jharkhand).

... Respondents

**WITH
W.P. (C) No. 1121 of 2024**

1. Subhash Agarwal, aged about 61 years, Son of Santlal Agarwal,
2. Binod Agarwal, aged about 51 years, Son of Santlal Agarwal,
Both Residents of Jamuna Bay Road, Bank More, Near Rey
Takies, P.O. Dhanbad, P.S. Dhanbad, Dhanbad, Jharkhand.

... Petitioners

Versus

1. The State of Jharkhand through the Chief Secretary, having its office
at Project Building, Dhurwa, P.O. Dhurwa, P.S. Jagarnathpur,
District Ranchi, Jharkhand.
2. Principal Secretary, Department of Revenue, Registration and Land
Reforms, Dhurwa, P.O. Dhurwa, P.S. Jagarnathpur, District- Ranchi,
Jharkhand.
3. The Deputy Commissioner, Dhanbad, P.O. Dhanbad, P.S. Dhanbad,
District Dhanbad, Jharkhand.
4. The Additional Collector, Dhanbad, P.O. Dhanbad, P.S. Dhanbad,
District Dhanbad, Jharkhand.

... Respondents

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioners:

Mr. R.N. Sahay, Sr. Advocate
Mr. Indrajit Sinha, Advocate
Ms. Puja Agarwal, Advocate
Mr. Rohitashya Roy, Advocate
Mr. Vibhor Mayank, Advocate
Mr. Nagmani Tiwari, Advocate
Mr. Govind Ray Karan, Advocate
Mr. Amit Kumar Verma, Advocate
Mr. Ankit Vishal, Advocate
Mr. Akhouri Awinash Kumar, Advocate
Mr. Yashvardhan, Advocate
Mr. Kirtivardhan, Advocate
Mr. Ritesh Singh, Advocate
Mr. Aditya Aman, Advocate
Ms. Pratayksha Bhaskar, Advocate

For the Respondents:

Mr. Mrinal Kanti Roy, G.A.-I
Mr. Manoj Kumar, G.A.-III
Mr. Mithilesh Singh, G.A.-IV
Mr. Jayant Franklin Toppo, G.A.-V
Mr. Yogesh Modi, A.C. to A.A.G.-IA
Mr. Piyush Chitresh, A.C. to A.G.
Mr. P.A.S. Pati, Advocate
Mr. Anil Kumar, Advocate
Mr. Arpit Kumar, Advocate
Mr. Aman Shekhar, A.C. to G.A.-I
Mr. Vishal Kr. Rai, A.C. to G.A.-IV

07/Dated: 01.05.2025

1. In these matters, the petitioners have challenged the constitutional validity of Section 22-A of the Registration Act, 1908, as introduced by the State of Bihar vide the Bihar Amendment 6 of 1991 which has also been adopted by the State of Jharkhand, and the consequential notification issued thereunder being notification No.1132 dated 26.08.2015.

2. Section 22-A of the Registration Act, 1908 as applicable in the State of Jharkhand is as under:

“22-A. Registration of documents which is against the public policy.- (1) The State Government may, by notification in the official gazette, declare that the registration of any document or class of documents is against the public policy.

(2) Notwithstanding anything contained in the Act, the Registering Officer shall refuse to register any document to which the notification issued under sub-section (1) is applicable.”

3. Admittedly, similar amendment made in the State of Rajasthan came to be considered by the Supreme Court of India in the case of ***State of Rajasthan and Others vs. Basant Nahata***¹.

4. The Supreme Court in the said judgment held that the doctrine of “public policy” is vague and uncertain and there are no guidelines to interpret the same. It held that it is not possible to define “public policy” with precision at any point of time and it is not for the Executive to fill the grey areas as the said power vests in the judiciary. It held that whenever interpretation of concept “public policy” is required to be considered, it is for the judiciary to do so and in doing so, even the power of the judiciary is very limited. It held that what is essentially within the exclusive domain of the judiciary cannot be delegated to the

¹ (2005) 12 SCC 77

Executive unless the policy behind the same is finally laid down. It rejected the plea raised in that case on behalf of State of Rajasthan that the State, being higher authority, having been delegated with the power of making declaration in terms of Section 22-A of the Act, would not abuse and held that the provision of Section 22-A is *ultra vires* Article 14 and Article 246 of the Constitution of India. It also rejected the plea of the State of Rajasthan that it being a policy decision, Court ought not to interfere. It held that a legislative policy must conform to the provisions of the constitutional mandates and that even otherwise, such a policy decision is subject to judicial review.

5. Having regard to the said decision of the Supreme Court, which is binding on this Court, and since the provision considered by the Supreme Court in the said judgment is identical to the provision framed by the Bihar State, which is adopted by the State of Jharkhand, Section 22-A of the Registration Act, 1908 as amended by the Bihar Amendment Act 6 of 1991 and as adopted by the State of Jharkhand, as well as the consequential Notification issued under the said provision on 26.08.2015 are struck down and all orders passed by the Sub Registrars or the officials of the Registration Department pursuant to the notification 26.08.2015 shall stand set aside.

6. The writ petitions are allowed only to the extent as stated above and all others issues raised by the petitioners are left open.

7. Pending Interlocutory Applications stand disposed of.

(M.S. Ramachandra Rao, C.J.)

(Rajesh Shankar, J.)