CIVIL MISCELLANEOUS

Before Inder Dev Dua and R. S. Narula, JJ.

BALWANT SINGH AND OTHERS,—*Petitioners*

versus

DEPUTY CHIEF SETTLEMENT COMMISSIONER AND OTHERS,—*Respondents*

Civil Writ No. 1956 of 1962.

1965

May, 19th.

Displaced Persons (Compensation and Rehabilitation) Rules, 1955—Rules 34-B and 34-C—Acquired evacuee urban agricultural land—Valuation of—Allottee or lessee in occupation of—Whether entitled to notice before valuation is made—Nature of proceedings—Whether quasi-judicial—Principles of natural—Justice—Whether to be observed.

Held, that under rule 34-C of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955, it is the right of a displaced person to acquire by allotment any land to which Chapter V-A applies, if such person is a lessee of that land and such land consists of one or more *Khasras* and is valued at Rs. 10,000 or less and that the Government has no discretion in the matter. He is, therefore, entitled to be heard before the value of that property is determined to decide whether it is to be considered as allotable or not. A very valuable right to acquire the property under the statute by the person in occupation thereof is determined at that time and there is no reason why this should be allowed to be done in an arbitrary manner *ex-parte,* when it is recognised that in the matter of comparatively insignificant right of the exact amount payable by the transferee, the allowing of an apportunity to the transferee is necessary. It is, however, not necessary, in every case of fixation of value under rule 34-B of the said Rules, for the statutory authority to call the occupant at the initial stage in the very first instance before fixing the value. It would be open to the authority concerned to call the occupant if he has already been found to be eligible for allotment under rule 34-C or to fix the value without calling him and to intimate the same to the lessee. If, however, the lessee feels aggrieved by the *ex parte* fivation of value and questions or impugns the same before the same authority in appropriate proceedings or in an appeal against such an order, it would not be open to the authority concerned to refuse to the aggrieved party an adequate opportunity to show cause against such *ex parte* fixation of value. The nature of the opportunity to be given will depend upon the circumstances of each case. But the principles of natural justice would not be satisfied if the aggrieved

party is not allowed to rebut the evidence on which the *ex parte* value has been fixed and/or is not allowed to lead his own evidence to show what the correct or the proper value should be. The aggrieved party its certainly entitled to know the evidence on which the *ex parte* value has been fixed in order to be able to rebut it.

Held, that it is for the maintenance of the rule of law enshrined in Article 14 of the Constitutoin and guaranteed to every citizen of this country that every Court, tribunal or statutory authority, who has to decide anything which affects or is likely to prejudicially affect the right of any citizen to acquire, hold or dispose of property, etc., must strictly conform to the well-settled principle of natural justice laid down in the maxim *audi alteram patem*.

Case referred by the Hon'ble Mr. Justice Shamsher Bahadur on the 29th April, 1965, to larger Bench for decision of an important question of law involved in the case and the case was finally decided by a Division Bench consisting of the Hon'ble Mr. Justice I. D. Dua and the Hon'ble Mr. Justice R. S. Narula on 19th May, 1965.

Petition under Articles 226/227 of the Constitution of India, praying that a writ of mandamus, certiorari, mandamus, *or any other appropriate writ, order or direction be issued quashing the orders of the respondents.*

H. S. WASU, AND L. S. WASU, ADVOCATES, for the Petitioners.

J. N. KAUSHAL, ADVOCATE-GENERAL, for the Respondents.

ORDER OF THE DIVISION BENCH

Narula, J. NARULA, J.—The short but important question that arises for decision in this writ petition is whether it is necessary to give an opportunity to an allottee or lessee of acquired evacuee urban agricultural lands to show cause why the land in the occupation of the lessee may not be valued at any particular rate under rule 34-B of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955, as amended in 1960 (hereinafter referred to as the Compensation Rules) either at the initial stage or at any subsequent stage; or whether the fixation of such value under the aforesaid rule 34-B for the purpose of deciding the rights of the allottee or occupant of the land under rule 34-C of the Compensation Rules is such an administrative matter, in the decision of which the allottee cannot claim a right to be associated with.

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Shorn of all details, the admitted facts giving rise to this petition are these.

The petitioners, who are three real brothers, are displaced persons from what is now known as West Pakistan. Their father, Sawan Singh, was a claim-holder in respect of urban agricultural land. Some land in Basti Danishmandan within the urban area of Jullundur was leased out to Sawan Singh. After his death the lease was continued in the name of the three petitioners who are now the claim-holders.

After the acquisition of the land in question by the Central Government under section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 44 of 1954 (hereinafter called the Act), the value of this land was fixed in 1958 at Rs. 300 per Kanal. At that time the rules for transfer of permanent rights in agricultural lands had not been framed. The procedure for doing so had been prescribed under various office orders and press communiques. In accordance with those orders and communiques the land in question had to be offered to the petitioners who were its lawful lessees. It is for this purpose that its value had been fixed after proper enquiry at Rs. 300 per Kanal and the land was offered to the petitioners at that rate.

In the meantime this Court held that the transfer of permanent rights in urban agricultural lands had to be made in accordance with rules properly framed under the Act and that departmental instructions or press communiques could not be allowed to have the force of law. Consequently on 26th November, 1960, Chapter V-A consisting of 8 rules, Nos. 34-A to 34-H, was added to the Compensation Rules,—*vide* Central Government notification No. G.S.R. 1404/R/Amdt., dated 17th November, 1960, published in the Gazette of India, Part II—Sec 3(1). For facility of reference rules 34-A to 34-C and 34-F added to the Compensation Rules may be quoted verbatim :—

> "34-A. *Application.*—The provisions of this Chapter shall apply to evacuee agricultural lands situated in urban areas and acquired under section 12 of the Act.

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34-B. *Valuation.*—For the purposes of this Chapter, all lands to which this Chapter applies shall be valued by an officer appointed in this behalf by the Regional Settlement Commissioner.

34-C. *Allotment of agricultural, land of the value of Rs. 10,000 or less.*—Where any land to which this Chapter applies has been leased to a displaced person and such land consists of one or more Khasras and is valued at Rs. 10,000 or less, the land shall be allotted to the lessee:

Provided that where any such land or any part thereof has been leased to a displaced person and the sub-lessee has been in occupation of such land or part thereof continuously from the 1st January, 1956, such land or part thereof, as the case may be, shall be allotted to such sub-lessee."

"34-F.—*Certain provisions of Chapter V to apply.*—Where any land to which this Chapter applies is allotted under rule 34-C or rule 34-D, the provisions of rules 25 to 29 (both inclusion) of Chapter V shall, so far as may be, apply."

On the coming into force of these amended rules the Government offered to the petitioners the same land at Rs. 1,000 per Kanal by letter dated 10th January, 1962 of which copy has been filed in this Court as Annexure 'A' to the writ petition. This offer was made consequent upon the application of the petitioners dated 4th September, 1961, under rule 34-A of the amended Compensation Rules. In that communication, the petitioners were informed that they had been found eligible for allotment of the land in question but the same had been valued at Rs. 7,500. This was at the rate of Rs. 1,000 per Kanal. The petitioners were aggrieved by this valuation and preferred an appeal to the Settlement Officer who dismissed the same by his order dated 19th April, 1962, of which a copy has been filed by the petitioners as Annexure 'B' to the writ petition. The following passage in the appellate order is relevant :—

"The appellants' contention is that this assessment of value is arbitrary and unreasonable and, therefore, should be reduced. From an examination

of the record received from the District Rent and Managing Officer, Jullundur, I find that he has fixed the price at Rs. 1,000 to bear out the appellants' contention that it is unconscionable."

A further application for revision filed by the petitioners against the appellate order was also dismissed by the Deputy Chief Settlement Commissioner,—*vide* his order dated 12th June, 1962 of which a copy is Annexure 'C' to the writ petition. Once again it is convenient to reproduce the relevant part of the order of the revisional authority in his own words :—

"The petitioner's case is that the valuation of the land in question as fixed was excessive, that even the S.O. was of the view that the valuation was fixed in an unguided manner and that as such the valuation may not be allowed to stand. It is further urged that the S.O. offered to reduce the price of the land to Rs. 500 per kanal subject to the condition that the petitioner would not file an appeal, but the petitioner was not prepared to do so.

The land is not being thrust upon the petitioners. It is open to them to buy it or not. As such they had no judicial right to question the valuation of the plot. The remarks of the S.O. that the price of the plot was not fixed in a guided manner do not help the petitioner. If the plot is of low value, the petitioner has an option to bid for it at a public auction."

When in December, 1962, the petitioners approached this Court under Article 226 of the Constitution notice of their petition was issued to the respondents and the petitioners' dispossession was stayed by the Motion Bench (Mehar Singh and Grover, JJ.).

In their written statement dated 15th April, 1963 the respondents have tried to support the impugned order on practically the same grounds as are contained in the revisional order of the Deputy Chief Settlement Commissioner

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dated 12th June, 1962. Fixation of the value of the land in question at Rs. 1,000 per Kanal has also been sought to be justified on merits, but I do not think that we are at all called upon to go into the merits of the fixation of the value of the land.

When the writ petition came up for hearing on 29th April, 1965, before a learned Single Judge of this Court (Shamsher Bahadur, J.) it was pointed out that the solitary point arising in this writ petition had already been referred to a larger Bench on 22nd January, 1965 in C.W. 1292 of 1962 at the instance of P. C. Pandit, J., Shamsher Bahadur, J. therefore, directed that this petition may also be heard by the Bench hearing C.W. 1292 of 162. That is how this petition has come up before us.

A similar question arose in this Court in some cases relating to the right of an occupant of urban acquired evacuee house or shop to be heard in the matter of fixation of its value for the purposes of determining the eligibility (liability of the property to be transferred to its occupant against the value for the same fixed by the department) under rules 25, 26, 30 or 31 of the Compensation Rules.

In Karam Singh v. *The Chief Settlement Commissioner, Ministry of Rehabilitation, New Delhi, etc.*—Civil Writ No. 685 of 1960—decided on 25th April, 1961 by Mehar Singh, J.—it was held as follows :—

> "On the question of value, if property No. 77 is treated as residential property and its value does not exceed Rs. 10,000, then according to rule 22(a) it is ordinarily allotable and if it is an industrial establishment and its value does not exceed Rs. 50,000, it is also ordinarily allotable. The learned Deputy Advocate-General appearing for the respondent says that this rule merely gives discretionary power to the authority concerned to make an allotment of these types of properties, but rule 25(1) provides that when an applicant for payment of compensation is in sole occupation of an acquired property which is an allotable property, such property may be transferred to him in lieu of compensation payable to him under Act No. 44 of 1954. In this sub-rule the word that

appears is 'may' and the learned Deputy Advocate-General argues that the use of this word means that the transfer of the property is discretionary and not as of right but in this context this word has been interpreted as 'shall' by Shamsher Bahadur, J. in Civil Writ No. 40 of 1960, decided on 10th November, 1960, and I agree with the learned Judge in this respect. The petitioner is a displaced person and he has compensation claim. It means that if the property in question is allotable property, he has right to its transfer to him under rule 25(1). The learned Deputy Advocate-General points out that in the matter of assessment of valuation of property it is the authority concerned as respondent No. 3 who has to do the assessment and a person in occupation of the property has no right to be heard when such assessment is made. But I should have thought it otherwise for the decision whether or not a particular property is allotable property depends upon what is its value and when deciding this character of the property in assessment of the value of the property rights of the person in possession are affected by the assessment which almost amounts to a decision as to the character of the property as allotable or not. No doubt there is no rule which specifically provides that in the matter of assessment of the value of property the person in occupation of the property should be heard, but it appears to me that in the circumstances when the character of the property is to determine the right of the occupier to its transfer or not, the decision as to its valuation is at least a quasi-judicial matter and in all judicial or quasi-judicial matters a decision on the back of party affected cannot be admitted. So the decision of the respondents in regard to the value of the property at the back of the petitioner cannot stand against him."

In short Mehar Singh, J. held in that case:—

(i) that the decision as to valuation on which a decision as to rights of allotability depend is a quasi-judicial matter;

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(ii) that in the matter of assessment of valuation of property for the purposes of determining its transferability, the person or persons in occupation of the property have a right to be heard when such assessment is made as the decision whether or not a particular property is allotable depends upon what is its value and in deciding this character of the property, the rights of the person in possession are affected;

(iii) that the occupant has such a right in law notwithstanding the fact that no specific provision in the Act or in the Compensation Rules requires that such an opportuniy should be granted; and

(iv) that the decision of the Rehabilitation authorities in regard to the value of the property given behind the back of the occupant cannot be allowed to stand against him.

An appeal under Clause 10 of the Letters Patent of this Court—L.P.A. 202 of 1961—was filed against the above-said judgment of Mehar Singh J. in C.W. 685 of 1960, but the same was dismissed by a Division Bench (Khosla, C.J., and Sharma, J.) on 30th August, 1961 *in limine.*

Shri Harnam Singh Wasu, the learned counsel for the petitioners then invited our attention to a judgment of my learned brother, Dua J. in *Kishan Chand* v. *Union of India and others,* C. W. 1261 of 1962, decided on 12th March, 1963. After referring to the judgment of Mehar Singh, J. in *Karam Singh's case* (*ibid*) my learned brother held as follows :—

"The rule of natural justice was urged in support of his claim to a hearing in regard to the question of valuation. In so far as the cancellation of allotment and the lease is concerned reliance was placed on section 19 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 and rule 102 of the Compensation rules. The learned Single Judge approving the earlier decision by Shamsher Bahadur, J. in Civil Writ No. 40 of 1960, upheld the claim to a hearing while

determining the valuation, it being in accord with the rules of natural justice. Reference has also been made to rules 34-A to 34-D in Chapter V-A added to the Compensation Rules and it has been emphasised that the matter is now governed by statute and that the view taken by the departmental authorities that the petitioner has no right to the transfer of the land is incorrect.

The learned Advocate-General has in reply tried to distinguish the order passed in Civil Writ No. 685 of 1960 on the ground that in that case the question related to increase in the valuation made later and not the original fixation on allotment as is the case in hand. According to the learned Advocate-General rule 34-B merely lays down that the officer appointed by the Regional Settlement Commissioner shall value all lands to which Chapter V-A applied. For the purposes of discharging this obligation, according to the counsel, an officer is not bound to hear all claimants who may be held entitled to have portions of land transferred to them. He, however, conceded that if any claimant felt aggrieved and lodged an appeal provided by statute then he must be given hearing and an opportunity of showing cause against the valuation. Shri Sikri also submitted that if the decision in Civil Writ No. 685 of 1960 is to be construed to lay down that every claimant is entitled to be heard even at the time of the original allotment then this decision requires reconsideration.

Shri Wasu in reply also concedes that the initial fixation of valuation by the officer does not require that every claimant should be heard. He agrees that if hearing is given to his client and a proper opportunity afforded to ventilate his grievance then the rule of natural justice will be fully justified.

In view of the position finally taken up by the two counsel in my opinion this writ petition must

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be allowed and the orders of the Settlement Officer (Appeals) with delegated powers of Settlement Commissioner, dated 16th January, 1962, of the Deputy Chief Settlement Commissioner on revision, dated 7th May, 1962 and of the Under-Secretary to Government of India, dated 5th July, 1962 under section 33 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, must be quashed and under Article 227 of the Constitution the matter remitted to the Settlement Officer (Appeals) to rehear the appeal after giving to the petitioner an opportunity of showing cause against the valuation and I order accordingly."

If, I could analyse the judgment of my learned brother, Dua, J., correctly, I understand it to hold (keeping in view the concessions made before him) :—

(1) that it is not necessary in all cases of original valuation to give notice to the occupant and to associate him in tentatively fixing the value of the property in question;

(2) that if after fixation of such value any occupant of the property, who was a claimant, felt aggrieved by the value of the property fixed under rule 34-B of the Compensation Rules, he had a right to agitate the matter further and to claim that the value had not been correctly fixed;

(3) that if in such proceedings in the nature of an appeal or otherwise an occupant questions or impugns the amount of the value of the property fixed by the authorities *ex parte*, he is entitled as of right to claim a hearing and an adequate opportunity of showing cause against the *ex parte* fixation of the value;

(4) that if in such an eventuality a proper and adequate opportunity is afforded to an occupant to ventilate his grievances by rebutting the material on which the *ex parte* value had been fixed or in any other legitimate manner point out errors in the same, the rule of natural justice would be fully satisfied;

(5) that for the purposes of deciding the claim of an occupant under rule 34-C of the Compensation Rules it is the duty of the Rehabilitation authorities to allow a proper opportunity to the occupant to show the correct value of the property in question; and

(6) that if the Rehabilitation authorities do not give such an opportunity to an occupant, claimant or contestant who is interested in the property and who is entitled to get it in case its value is fixed at or below a particular figure, the order of the Rehabilitation authority declining the occupant such opportunity would be liable to be struck down under Article 226 of the Constitution.

It is significant to note that C.W. 1261 of 1962 decided by my learned brother, Dua, J., directly involved the question of interpretation and application of rule 34-B of the Compensation Rules which is the rule in point in the instant case.

Mr. Wasu next relied on the judgment of another learned Single Judge of this Court (Shamsher Bahadur, J.) in *Diwan Chand* v. *The Deputy Chief Settlement Commissioner, etc.*,—C.W. 432 of 1963, dated 15th May, 1963. This was also a case under rules 34-B and 34-C of the Compensation Rules. The counsel for the petitioner in that case (who happened to be Mr. H. S. Wasu again), relied before Shamsher Bahadur, J., on the earlier judgment of my learned brother, Dua, J., in *Kishan Chand's case*. On behalf of the State an objection was taken to the effect that the judgment in *Kishan Chand's case* was based on a concession. Adverting to this Shamsher Bahadur, J., after referring to certain portions of the judgment of Mehar Singh, J., in *Karam Singh's* case, proceeded to hold as follows:—

> "I am in respectful agreement with the *ratio decidendi* of this authority (judgment of Mehar Singh, J. in *Karam Singh's case*) and it may also be added that it has been followed in an unreported decision of Dua, J., in Civil Writ

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No. 1261 of 1962, decided on 12th of March, 1963. Mr. Sikri, who appeared in that case for the State made some concession which is thus referred to by Dua, J:—

> "He, however, conceded that if any claimant felt aggrieved and lodged an appeal provided by statute, then he must be given a hearing and an opportunity of showing cause against that valuation."

Mr. Sikri points out that what he had conceded in Civil Writ No. 1261 of 1962 was that within the limits of the material which was available before the District Rent and Managing Officer as a Valuation Authority, the person in occupation could present his point of view in the matter of valuation but he was not entitled to adduce any evidence in support of his valuation, Dua, J., though he mentioned the argument of Mr. Sikri that "if the decision in Civil Writ No. 685 of 1960 (decided by Mehar Singh, J.) is to be construed to lay down that every claimant is entitled to be heard even at the time of the original allotment then this decision requires consideration", no mention was made about the restricted sense in which the concession was made about the right of an aggrieved party to be heard when his appeal against valuation was being heard. In any event, I do not think that the integrity of the rule which has been laid down by Mehar Singh, J. and assented to by Dua, J. can be affected or restricted in the manner suggested by the Advocate-General. The District Rent and Managing Officer for the purpose of determining the valuation at which the property should be transferred to the occupier performs a quasi-judicial task when it is being re-determined to his detriment, and it would promote the interests of justice and fair play if the person concerned is allowed a full opportunity of being heard. It is on this broad general consideration that I would allow this petition and remit the case to the appropriate authority for a re-decision."

Shamsher Bahadur, J. in *Diwan Chand's case,* therefore, held:—

(i) that the Managing Officer or other authority for the purpose of determining the valuation at which the property should be transferred to the occupier performs a quasi-judicial task; and

(ii) that even in the absence of any specific rule it was necessary for the authorities concerned to allow the affected occupant of the property an opportunity of showing what the correct value of the property should be, as it would promote the interests of justice and fair play if the person concerned is allowed a full opportunity of being heard.

The last case to which the learned counsel for the petitioners has invited our attention is the judgment of Shamsher Bahadur, J., dated 31st March, 1964, in *Labha Ram Kapur* v. *Union of India and others* (1). The learned Single Judge followed the earlier judgments on the point and affirmed the same view again. This case, however, related to rules 22 and 25 of the Compensation Rules.

Mr. Wasu, the learned counsel for the petitioner, who has argued this case fully and with great ability, then invited our attention in a very fair manner to various judgments of this Court which appeared to him to be against the contention raised by him. The first and basic authority, which has been construed against Mr. Wasu's view point is the judgment of Bishan Narain, J., dated 16th December, 1958 in Civil Writ No. 465-D of 1957—*Jetha Nand Hotchand* v. *Chief Settlement Commissioner, etc.* In that case Bishan Narain, J. held that an occupant had no right to be associated in the matter of fixation of the value of the property for the purpose of determining its allotability for three reasons, namely,—

(i) rule 22 of the Compensation Rules, which defined allotable property left it to the discretion of the authorities to put any property in the allotable list or not to put it in that list because of the use of the word "ordinarily" in that rule;

(ii) there is no section in the Act nor any provision in the rules which may make it obligatory for the authorities to afford such a hearing to the occupant;

(1) 1965 P.L.R. Short Note No. 8.

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(iii) after all, the Government is the owner of the property and it is, therefore, open to the Government to deal with it as it likes and it can sell, let or allot to any person whatsoever and the value, which is fixed by the Rehabilitation authorities is for the purposes of the Government itself only in order to determine "If the property is to be treated as allotable to the occupier or not".

With great respect to the learned Judge we are not able to agree with any of the three grounds on which he based the above-mentioned judgment. A division Bench of this Court (Dulat and Pandit, JJ.) has already approved the dictum of various Single Bench judgments (referred to therein) in which it has been held that in spite of the use of the word "ordinarily" in rule 25, it is the absolute right of a displaced claimant, who is in occupation of acquired evacuee property to have the same transferred to him under rule 25 of the Compensation Rules. Such a right has been denied to a displaced non-claimant under rule 26 of the Compensation Rules on entirely different grounds. This was so held in *Harbaksh Singh*, v. *The Central Government, etc.* (2).

Regarding the second point which prevailed with Bishan Narain, J., it may be observed that if there was an express provision in the Act or the rules requiring a hearing, the matter would probably have never reached this Court. It is for the maintenance of the rule of law enshrined in Article 14 of the Constitution and guaranteed to every citizen of this country that every Court, tribunal or statutory authority, who has to decide anything which affects or is likely to prejudicially affect the right of any citizen to acquire, hold or dispose of property, etc., must strictly conform to the well-settled principle of natural justice laid down in the maxim *audi alteram partem.*

The third ground on which Bishan Narain, J. held that no hearing was necessary is, in our respectful opinion, again based on a slight misapprehension of the statutory position. No doubt the Government is the owner of the property and in certain set of circumstances it can even

(2) 1962 P.L.R. 629.

take it out of the compensation pool. But so long as the Government is dealing with the property as a part of the compensation pool under the Act, it is bound to mould its action within the four corners of the Act and not to outstep the statutory jurisdicion vested in the hierarchy of various officers of the Rehabilitation Department. On the analogy of rule 25 of the Compensation Rules we hold that under rule 34-C of the Compensation Rules it is the right of a displaced person to acquire by allotment any land to which Chapter V-A applies, if such person is a lessee of that land and such land consists of one or more Khasras and is valued at Rs. 10,000 or less. All other conditions of rule 34-C are admittedly satisfied in this case. The petitioners have admittedly not been granted adequate opportunity to show cause against the value of land fixed in their absence. They are entitled to have such an opportunity in order to satisfy the principles of natural justice.

Mr. Wasu then states that a judgment of Grover, J., dated 23rd November, 1959, in C.W. 29-D of 1958—*Mana Singh* v. *Secretary, Ministry of Rehabilitation*—has also been relied in some cases against the view which Mr. Wasu is canvassing before us. I was myself appearing in that case for the petitioner. I have again gone through the judgment of Grover, J. in that case and I do not think that the said judgment can help us in deciding the question referred to us one way or the other.

A judgment of Bedi, J., dated 28th December, 1960 in C.W., No. 313-D of 1959—*Dina Nath, etc.* v. *The Union of India and others*—is then referred to by Mr. Wasu as being against him. Bedi, J. merely relied on the judgment of Bishan Narain, J., and adopted the reasoning of the judgment in *Jetha Nand Hotchand's case*. Whatever has been stated above in respect of that earlier judgment applies to the judgment in C.W. 313-D of 1959 also. With the greatest respect to the learned Judge we are not able to agree with the reasoning of Bishan Narain, J. which was adopted by Bedi, J. The judgment of Bedi, J. in *Dina Nath's case* was the subject-matter of L.P.A. 7-D of 1961 which was dismissed by Khosla, C.J., and Shamsher Bahadur, J. on 23rd October, 1961. The Division Bench did not at all advert to the question of the necessity to afford a hearing to an

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occupant in the matter of fixation of the value of an acquired evacuee property in view of their findings on the facts of that case.

Principally relying on the judgments of Bishan Narain, J. and Bedi, J. in the above-mentioned cases another learned Single Judge of this Court (Jindra Lal, J.) has in a comparatively recent judgment, dated 2nd November, 1964 in *Raj Rani Kapur and others* v. *Deputy Secretary to Government of India, Ministry of Rehabilitation, etc.*—C.W. 118 of 1963—held that it is not necessary for the Government to allow any person any opportunity to show that the value fixed by the Government for determining allotability of any acquired evacuee property is correct or not. After adopting the reasoning which found favour with Bishan Narain, J. and Bedi, J., in the two earlier cases it has been held by Jindra Lal, J. that the fixing of the value of acquired evacuee property belonging to the Government is within the sole jurisdiction of the Government and no hearing need be provided to anyone. The learned Single Judge has held that the right to question the valuation arises only if and after the property is held to be allotable. The view expressed by Jindra Lal, J. in the aforesaid case is that when the Government fixes the value of property for putting it on the list of allotable properties or non-allotable properties no one has a right to come into the picture. Even after the value is so fixed, according to the view expressed by Jindra Lal, J., no one can contest the fixation of the value for the purpose of determining allotability but if the property is held to be allotable on such an *ex parte* valuation the person to whom it is to be transferred may have a right to agitate that the amount he has to pay for the property by adjustment of claims or otherwise should be different from the one fixed by the Government for the purposes of determining allotability. Even according to the judgment of Jindra Lal, J., it is not permissible for the department to tell the allottee in such a case that he must pay an arbitrary price and have his compensation adjusted against such a price. Attention of the learned Judge does not, however, appear to have been drawn to the fact that a much more valuable right to acquire the property under the statute is determined at the time of including or excluding it in or from the list of allotable properties. There is no reason why this should be allowed to be done in an arbitrary manner *ex parte*, when it is recognised

that in the matter of comparatively insignificant right of the exact amount payable by the transferee, the allowing of an opportunity to the intended transferee is necessary. It appears that the earlier judgments of this Court holding that it is the statutory right of a displaced claimant who is an occupant of allotable property to obtain the same and that the Government has no discretion in the matter were not brought to the notice of Jindra Lal, J. The learned Judge has, therefore, observed that a displaced person has no right to the allotment of any particular property under the Act. With greatest respect to the learned Judge we are not able to agree with the law laid down in *Raj Rani's case.*

Mr. Wasu then cited various judgments including the judgments of the Supreme Court in *Board of High School and Intermediate Education, U. P. Allahabad* v. *Ghanshyam Das Gupta and others* (3) *and Shankarlal Aggarwal and others* V. *Shankarlal Poddar and others* (4), to show that the nature of the proceedings involved in fixing the value of the property under rule 34-B of the Compensation Rules is quasi-judicial and not administrative. It is not necessary to go into further details on that point as we have already held, following and approving the judgment of Mehar Singh, J. in *Karam Singh's case* that these proceedings are quasi-judicial. Even if, however, the proceedings were quasi-judicial, it would be necessary to give an opportunity to the person whose statutory rights in property are likely to be affected by the decision in those proceedings.

We, therefore, hold that the impugned orders of the District Rent and Managing Officer, Jullundur, fixing the value of the land *ex parte* and the order of the Settlement Commissioner (Appeals) refusing to allow the petitioner an opportunity to show that the value had not been correctly fixed and the order of the Deputy Chief Settlement Commissioner upholding the said orders are vitiated by an error apparent on their face and are, therefore, liable to be and are hereby set aside and quashed. We, however, want to make it clear that we may not be understood to hold that in every case of fixation of value under rule 34-B of the Compensation Rules it is necessary for the statutory

(3) A.I.R. 1962 S.C. 1110.
(4) A.I.R. 1965 S. C. 507.

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authority to call the occupant at the initial stage in the very first instance before fixing the value. It would be open to the authority concerned to call the occupant if he has already been found to be eligible for allotment under rule 34-C or to fix the value without calling him and to intimate the same to the lessee. If, however, the lessee feels aggrieved by his *ex parte* fixation of value and questions or impugns the same before the same authority in appropriate proceedings or in an appeal against such an order, it would not be open to the authority concerned to refuse to the aggrieved party an adequate opportunity to show cause against such *ex parte* fixation of value. The nature of the opportunity to be given will depend upon the circumstances of each case. But the principles of natural justice would not be satisfied if the aggrieved party is not allowed to rebut the evidence on which the *ex parte* value has been fixed and/or is not allowed to lead his own evidence to show what the correct or the proper value should be. The aggrieved party should certainly be entitled to know the evidence on which the *ex parte* value has been fixed in order to be able to rebut it.

This writ petition is, therefore, granted, the impugned orders of respondents Nos. 1 to 3 are set aside and quashed. The eligibility of the petitioner under rule 34-C except for the question of valuation having already been determined, the authorities would now proceed according to law for determining the value of the property in question in accordance with the principles set forth above. In the peculiar circumstances of the case we make no order as to costs.

I. D. DUA, J.—I agree.

B.R.T.

CIVIL MISCELLANEOUS

Before Inder Dev Dua and R. S. Narula, JJ.

THE WORKMEN OF THE OSWAL WEAVING FACTORY,—
Petitioners

versus

THE STATE OF PUNJAB—*Respondent.*

Civil Writ No. 1678 of 1962.

1965

May, 20th.

Industrial Disputes Act (XIV of 1947)— Ss. 10(1) and 12(5)— Powers of appropriate Government under—Whether administrative— High Court—When can interfere—Constitution of India (1950)— Article 226—Directions and Orders under —When normally to be