

Govt can't cite public good to take land for cos

Dhananjay Mahapatra | TNN

New Delhi: The Supreme Court has added a new twist to the government's land acquisition policy. In a ruling that may cause further discomfiture to the Centre and states on the SEZ issue, the court has drawn a distinction between land acquired by the government for public purposes and that for a private company while saying a notification can't espouse both purposes simultaneously.

A bench of Justices S B Sinha and H S Bedi said, "The state is obligated to issue a notification clearly stating whether the acquisition is for a public purpose or for a company. A declaration is to be made either for a public purpose or for a company. It cannot be both."

This part of the judgment might also have ramifications for the land acquired by the West Bengal government in Shyampur. The state government's July 21, 2006, notification for acquisition of land in Hooghly district under section 4 of the Land Acquisition Act, 1894 appears to have cited

SC SAYS

- Govt can issue a land acquisition notification either for public purpose or for a company. It cannot be for both
- When acquiring land for cos, govt must make sure it's not good agricultural land
- Good agricultural land is defined as any land with average productivity, including gardens and groves

both the purposes — public as well as the establishment of a private company.

The SC ruling came in the wake of a dispute over setting up a tractor factory in Punjab. The court asked for strict interpretation of land acquisition rules and said: "When properties of citizens are being compulsorily acquired by a state in exercise of its power... the existence of public purpose and payment of compensation are principal requisites."

► Acquire only barren land', P 18

Only land not suited to agriculture should be acquired: SC

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New Delhi: The Supreme Court has said that the Land Acquisition Act, 1894, stipulates that agricultural land should not be acquired for setting up a factory or for any other corporate purpose. Striking down acquisition of land for the 'Cannabis Project' of International Tractors Limited in Village Chak (Shyampur) by the Punjab government, the Bench laid down extensive guidelines, cutting it out from the statutory rules.

ITL had entered into an agreement with Renault Agriculture, France, which holds 20% shares in ITL, for manufacture of latest technology tractors to boost exports. The Punjab government had issued the land acquisition notification saying establishment of the factory would contribute to the general welfare and prosperity of the whole community.

The Bench said, "When the state intends to proceed with the acquisition of land, it must lay down an opinion that lands which are going to be acquired are not good agricultural lands. The rules, by and large, lay down a statutory policy and the question of ignoring it by the state does not arise."

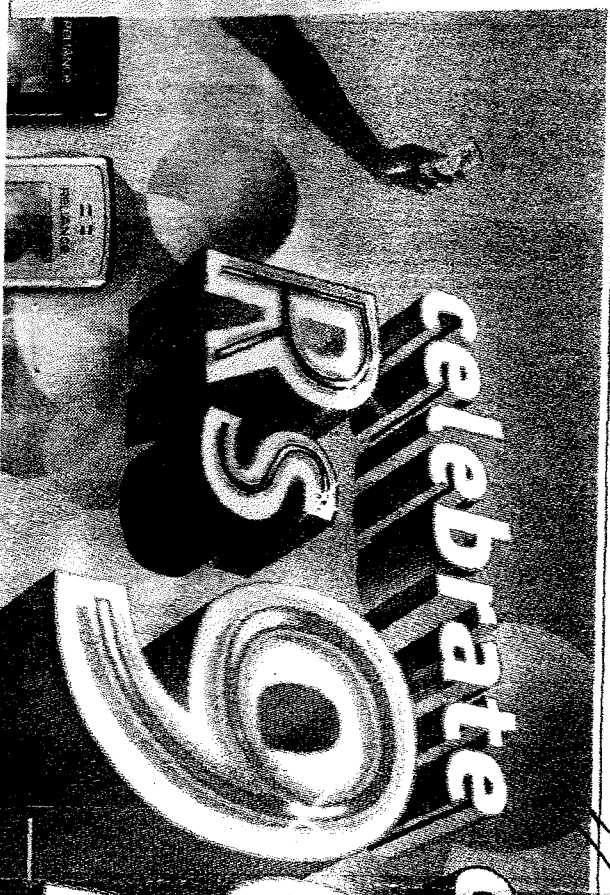
"Good agricultural land", as per rules, means "any land which, considering the level of agricultural production and the crop pattern of the area in which it is situated, is of average productivity and in-

cludes garden or grove land," the court said.

Whenever a company makes an application to the appropriate government for acquisition of any land, that government shall direct the collector to submit a report to it after satisfying that:

- The company made its best efforts to locate land in the locally suitable for acquisition
- The company failed to acquire the land despite reasonable efforts to get such land by negotiations with the persons concerned on payment of reasonable price
- The land proposed to be acquired is suitable for the purpose
- The area proposed to be acquired is not excessive
- The company is in a position to utilise the land expeditiously.
- Where the land proposed to be acquired is good agricultural land, that no alternative suitable site can be found so as to avoid acquisition of that land

Where the land proposed to be acquired is agricultural land, the court put the onus on the collector to consult the senior agricultural officer of the district to ascertain whether it is "good agricultural land" or not. After doing so, the collector is also to ascertain the approximate amount of compensation likely to be paid for the land and also whether the company offered a reasonable price, the court said.



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