

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2858 of 2016

- Krishna Kumar Shukla S/o Late Shri Sundar Lal Shukla, Aged About 57 Years R/o Village Kunvra (Kunra), Tehsil Navagarh, District Bemetara, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Ministry Of Water Resources Department, New Raipur, (Chhattisgarh)
2. Superintending Engineer, Shivnath Madal, Durg, (Chhattisgarh)
3. Executive Engineer, Water Resources Division, Bemetara, District Bemetara, (Chhattisgarh)
4. Sub Divisional Officer, Water Resources Sub Division, Nawagarh, District Bemetara, (Chhattisgarh)

---- Respondent

For Petitioner	Mr. Sudhir Agarwal, Advocate
For Respondent /State	Mr. Shashank Thakur, Government Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

23/11/2016

1. Heard.
2. Learned counsel for the petitioner would submit that due to implementation of “**Dhaba Diversion Scheme**”, the petitioner's land has been rendered useless as every year the land comes under the submergence area, therefore, the respondents be directed to provide adequate compensation to the petitioner or in the alternative, to allow him to take Rabi crops every year or

provide alternative agricultural land for cultivation. He would submit that in **WPC No.1768 of 2012 (Pradeep Shukla and others Vs. State of Chhattisgarh and others)**, decided on **11.09.2014**, concerning the same scheme, the Coordinate Bench of this Court has passed an order directing the authorities to submit report of submergence of land and thereafter, decide the matter relating to grant of compensation after physical verification regarding actual submergence, therefore, the present petitioner is also entitled for similar relief.

3. Learned counsel for the State would submit that if the petitioner's case is similar to the case of **Pradeep Shukla (supra)**, after due verification and satisfaction, the concerned authorities may take similar decision. However, for that, the petitioner is required to submit representation before the authorities.
4. In the matter of **Pradeep Shukla (supra)**, this Court has held thus in para 9:

“9. The petitioners have prayed that respondents be directed to operate sloes in particular manner. This cannot be ordered by this Court. In what manner, an irrigation scheme is to be implemented and operated is essentially a matter to be decided by the Department of Water Resources. This Court cannot direct that irrigation scheme should be operated in a particular manner. However, if by operation of the irrigation scheme, any holder of land is deprived of use of his land, he is certainly entitled to compensation in accordance with law. In view of the

above, petitioners have made out a case for issuance of suitable direction to respondents. Hence following order :

(A) Executive Engineer having sent a proposal on 26.04.2011 to the Superintendent Engineer with a clear report of submergence of land, the Superintendent Engineer or such higher authority who is competent to take decision in the matter should decide the matter relating to grant of compensation after physical verification regarding actual submergence of land belonging to the petitioners. This should be done within a period of 04 months from the date of receipt of copy of this order by respondent No.2/Superintendent Engineer.

(B) On a factual finding regarding submergence of petitioner's land wholly or in part under the diversion scheme, the respondent shall either proceed to assess the compensation as per the proceedings of the land Acquisition Act or provide land in exchange, to the petitioners. The decision in this regard shall have to be taken by respondents within a further period of two months."

5. Considering the fact that learned counsel for the State has not conceded to the petitioner's submission that his case is similar to the case of **Pradeep Shukla (supra)**, the writ petition is disposed of with a direction that the petitioner may move representation before the Superintending Engineer, Shivnath Madal, Durg (CG) i.e. respondent No.2, within a period of one month from today. The said officer shall consider and verify as

to whether the petitioner's case is similar to the case of **Pradeep Shukla (supra)**. If the petitioner's case is similar, the petitioner would be entitled to similar relief as has been granted in the case of **Pradeep Shukla (supra)**

6. The writ petition stands accordingly disposed of.

Sd/-

Judge

(Prashant Kumar Mishra)

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