

CWP No.24399 of 2016 (O&M)

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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.24399 of 2016 (O&M)

Date of decision: **08.12.2016**

Ranjit Singh

....Petitioner

Vs.

State of Punjab and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Anil Kumar Garg, Advocate and

Mr. Kanav Bansal, Advocate for the petitioner.

Jaswant Singh, J

Petitioner, who is one of the oustees, whose land measuring 24 kanals and 6 marlas situated at Village Dayalpura, Tehsil Budhlada, District Mansa was acquired for establishment of Peona Thermal Power Plant at Village Gobindpura, Tehsil Budhlada District Mansa, as per Policy dated 08.11.2011, seeks a writ of Certiorari for quashing of order dated 27.9.2016 (P.11) passed by respondent No.3 vide which his claim for grant of government job has been rejected.

Learned counsel for the petitioner contends that in view of the Policy decision dated 08.11.2011 (P.1), the government job has

already been granted to one of the family members, whose land was acquired along with the petitioner but he has been denied the benefit solely on the basis of new guidelines dated 03.3.2014, which is absolutely illegal and discriminatory.

Heard learned counsel for the petitioner and perused the paper book with his able assistance.

A perusal of paper book reveals that the Electricity Department of Government of Punjab issued Policy Instructions dated 08.11.2016 (P.1) for giving public employment to one member of the family, whose land has been acquired for Peona Power Thermal Plant. As per the Policy, the government job was to be offered to one family member under Group C and D Posts, the eligibility of which was 10+2 Examination.

It is not in dispute that that the land belonging to the father of the petitioner was acquired by the Electricity Department. It is also matter of record that the petitioner has passed Master of Arts (Political Science) in April 2004 from Punjabi University besides having acquired the degree of B.Ed in July 2006. It is also not disputed that on earlier occasion also, the petitioner along with others filed CWP No.5974 of 2014, which was disposed of on 28.3.2014 in terms of order dated 24.3.2014 passed in CWP No.5459 of 2014.

It is necessary to mention here that in CWP No.5459 of 2014, an assurance was given by the official respondents that all the cases submitted upto 31.7.2014 and pending for appointment in terms of Policy framed by the Government will be considered after the Parliamentary Elections are over. Consequently, the case

of the petitioner was considered by the Deputy Commissioner, Mansa on the basis of guidelines dated 03.3.2014 as well as the recommendations of the Committee consisting of three members i.e Under Secretary, Department of Power, District Revenue Officer and the Sub Divisional Officer, Land Acquisition Collector but the same was rejected vide order dated 28.7.2014 (P.9).

Aggrieved against the aforesaid order, the petitioner filed CWP No.22319 of 2014, which was disposed of by this Court on 29.3.2016 in terms of orders passed in connected writ petition bearing CWP No.16541 of 2014 observing as under:

“In such circumstances, it would be appropriate that the Deputy Commissioner should consider the cases of the petitioners afresh and objectively. A proper opportunity of hearing will be given to the petitioners to furnish their position after issuing show cause notice and supplying them the copy of objections raised by the Committee and thereafter, pass a reasoned order in each and every case individually. It will be open to the petitioners to furnish material before the Deputy Commissioner to show that they are also entitled for the consideration of the job and do not fall within the exceptional clauses which have been laid down in the policy dated 03.03.2014. The said exercise be carried out by the Deputy Commissioner within a period of 6 months and accordingly separate orders be passed in each case.”

In compliance of the aforesaid directions, respondent No.3-Deputy Commissioner, Mansa has passed the impugned order, which is the subject matter of this petition.

A perusal of the impugned order reveals that the real

purpose of the Policy framed by the Government vide Memo dated 08.11.2011 was being defeated on account of the fact that approximately 400 transactions had taken place in a period of less than six months prior to the issuance of Notification under Section 4 of the Land Acquisition Act with the sole motive to become a land owner for the proposed land acquisition and to gain employment on the basis of the said Policy. Even most of these transactions were of small area and in some of the cases, a few square yards of land. Therefore, in order to give the benefit to the real deserving cases, the guidelines were reviewed by convening a high level meeting under the chairmanship of Hon'ble the Chief Minister, Punjab on 28.2.2014 to ensure that the real land owners whose source of livelihood had actually been taken away, should get the government job and non-deserving candidates should not take the undue advantage of the Policy. Consequently, the revised guidelines were circulated vide Memo dated 03.3.2014 and as per these guidelines, the applicants whose quantum of land is very less and whose partial land is acquired, cannot be said to be the families that their livelihood has been affected. It was further decided that the land owners/families, whose acquired land is 2 acres or more, would be eligible for consideration of the government job in addition to some cases of exceptional hardships where the family has been completely/substantially affected by way of acquisition of land between 4 kanal to 2 acres and the relevant parameters in this regard read as under:

“a) Whether the family has no other source of reasonable livelihood.

- b) Whether the family has any other land holding in any part of the State.*
- c) Whether the land owner is a bonafide resident of the village for the last five years.*
- d) Whether the family is in receipt of any kind of pension given by the Central/State Govt or any other agency other than the pension given by the Social Security Department.*
- e) Whether his/her entire holding has been acquired.*
- f) Whether the land owner has become owner of the land with ulterior motive of deriving benefits of land acquisition.”*

It was also decided that the following families shall not be eligible:

- “ a) If the land acquired is less than 4 kanals.*
- b) In case the claim is bases on acquisition of part of the village common land, jumla land etc.*
- c) If the land owner has exchanged his acquired land either fully or partially with some other land belonging to the project.”*

It is an admitted fact that only 6 kanal, 1 1/2 marlas of land of the father of the petitioner has been acquired and they are still owners in possession of 6 acres of land in village Dayalpura. It has also come on record that the family of the petitioner is not bonafide resident of village Bareta. In view of the undisputed fact that 6 acres of land is still in possession of the family of the petitioner and he is not bonafide resident of village Bareta, which is one of the factors to be taken into consideration that the land owner is bonafide resident of village for the last five years, and thus the case of the petitioner has rightly been rejected. Moreover, the

land of father of the petitioner is acquired upto the extent of 6 kanal 11/2 marlas and the Deputy Commissioner after careful examination of the case of the petitioner and affording him an opportunity of hearing has come to the conclusion that this is not a case of exceptional hardships and the relevant of the observations read as under:

“After going through the official record it is clear that the extent of acquired land belonging to the father of the applicant is 6 kanals 11/2 marlas for the project. The applicant and his father are still owners of land measuring 6 acres in village Dyalpura, District Mansa.

It is evident that the applicant can earn his livelihood with the remaining land of 6 acres which is still under the possession of his family and he is not bonafide resident of village Bareta. As per policy one of the criteria to decide the exceptional hardship cases is “Whether the land owner is a bonafide resident of the village for the last five year”. Hence this is clear that applicant does not fulfil this criteria. The applicant has not said anything or produced any new evidence to prove that his case falls under the category of “exceptional hardship” which provides for a job to the person whose land acquired is to the tune of 4 kanals to 2 acres. Therefore, considering the claim of the applicant in light of the government guidelines, recommendations of the committee, documents placed on record and the arguments/documents produced by the applicant during personal hearing, I am of the considered opinion that applicant does not fulfil the criteria to get the government job for “exceptional hardship” as provided by Punjab Government guidelines

circulated vide memo No.10/88/2010-PE 1/547 dated 3/3/2014. Hence claim of the applicant is rejected.”

In view of the aforesaid, this Court finds no merit in the present petition and the same is dismissed.

December 08, 2016
manoj

(JASWANT SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>