

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2730 of 2016**

Sameer Mishra S/o Sanjeevan Mishra, Aged About 34 Years R/o Village Goushalpara, Bus Depo Road, Raigarh, P.S. Tehsil & Distirct Raigarh Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Thorugh The Secretary, Department Of Revenue And Disaster Management, Mahandi Bhawan, Mantralaya, Naya Raipur Tahsil & District Raipur Chhattisgarh
2. The Collector, (Land Acquisition), Janjgir Champa, Distirct Janjgir Champa Chhattisgarh
3. Sub Divisional Officer Revenue (Land Acquisition Officer) Dabhara, Distirct Jajgir Champa Chhattisgarh
4. Executive Engineer, Water Resources (Survey & Barrage), Divison No 1, Kharsiya, Distirct Raigarh Chhattisgarh
5. Union Of India Through Ministry Of Law & Justic Legislative Department, Through Secretary, Ministry Of Law & Justice (Legislative Department,) New Delhi

---- Respondents

For Petitioners	:	Mr. Sourabh Sharma, Advocate.
For Respondents/State	:	Mr. Dhiraj Wankhede, G.A.
For Respondent No. 5	:	Mr. Bhupendra Singh, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****07/11/17**

Heard.

2. Learned counsel for the parties would submit that the issue involved in the writ petition has already been considered and decided in the Writ Petition No. 1401 of 2015 (*Alok Agrawal v. State of Chhattisgarh & Others*) decided on 03.11.2017.

3. In view of the above submissions, relying on Para 34, 35 and 36 of WPC- 1401/2015 (*Alok Agrawal v. State of Chhattisgarh & Ors.*), it has been held as under :-

“Para 34- On the basis of aforesaid analysis, I am of the considered opinion that the notification dated 02.03.2015 exempting all the projects from the provisions of Chapter-II and Chapter-III of the Act of 2013 is nothing but a colourable exercise of power by the State Government to make acquisition for supplying water to the power plants of private companies and further, that such a notification would stand lapsed upon the Ordinance having been ceased to operate with effect from 31.08.2015, as the situation has not become irreversible, as only notification under Section 11(1) of the Act of 2013 has been issued and neither award has been passed nor possession has been taken from the petitioners, thereby the provisions of Chapter-II and Chapter-III ought to have been complied with by the appropriate Government (State Government) by conducting social assessment impact study and following Section 10A of the Act, which are imperative provisions, and without following the said provision, the acquisition of the petitioners' land is unsustainable and bad in law.

“Para 35- As a fallout and consequence of aforesaid discussion, the notification issued by the appropriate Government dated 02.03.2015, qua the petitioners' land, is quashed and consequently, the notification under Section 11(1) of the Act of 2013 dated 01.04.2015, qua the petitioners is also hereby quashed. However, this will not bar the appropriate Government to proceed in accordance with law.

“Para 36- The writ petitions are allowed to the extent sketched herein above leaving the parties to bear their own cost(s).”

4. Accordingly, the writ petition is disposed of in terms of the decision rendered by this Court in *Alok Agrawal v. State of Chhattisgarh* (supra). No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge