

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Civil Writ Petition No.22174 of 2014
Decided on : 16.08.2017**

Ishwar Singh

... Petitioner

Versus

Haryana Power General Corporation Ltd. and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Sandeep Kumar, Advocate for
Mr. Vikram Singh, Advocate
for the petitioner.

Mr. B.R. Mahajan, Senior Advocate with
Mr. Deepak Balyan, Advocate for respondents.

G.S. Sandhawalia, J. (Oral)

The challenge in the present writ petition is to the order dated 28.01.2014 (Annexure P-2) wherein application for release of annuity compensation for the land oustee was denied on the ground that the same was purchased by the respondent-Corporation by the mutual consent and in such cases payment of annuity is not admissible.

It is the case of the petitioner that he owned 5 acres of land adjoining to the Thermal Plant and 2 acres of land was acquired by the respondents in the year 2003-2004 and thereafter, 3 acres of land were taken by the respondents after intervention of the Court as the entire agriculture land of the petitioner was rendered useless on account of seepage. Resultantly, the respondents purchased 23 kanals 8 marlas of land in the year 2008-2009. It is submitted that in view of the policy dated 07.12.2007 (Annexure P-3), the petitioner is entitled for the benefits of annuity which is

to the tune of ₹15,000/- per acre for 33 years. It is, thus, the case of the petitioner that since the the land was acquired and in view the acquisition he is entitled for the benefit of annuity.

In the written statement filed by the respondents the plea taken is that the policy is meant for land acquisition oustees and where acquisition has been done. The petitioner had earlier approached this Court in CWP No.17579 of 2004, which was disposed of on account of the fact that the sale deed had been executed in favour of the Corporation. The order dated 21.11.2008 reads as under:-

“Learned counsel for the respondent-corporation has placed on record a copy of sale deed executed by the petitioners-owners of the disputed land in favour of the respondent-corporation. It is not disputed that the entire sale consideration settled between the parties for transfer of title in the said land in favour of corporation has already been paid to the petitioners. In that view of the matter, therefore, the writ petition is disposed of. All pending applications are also disposed of.”

Resultantly, it has been pleaded that it was not the case of pronouncement of award, thought it was a case of purchase of land by respondent-Corporation through private negotiations and the policy as such would not be applicable. The appropriate facts had been concealed and, therefore, the benefits could not be granted. Reference was also made to another writ filed by the petitioner i.e. CWP No.14086 of 2009, which was disposed of vide order dated 09.09.2009 with directions to decide the legal notice dated 25.05.2009 by passing reasoned speaking order. It is submitted that as per the said directions the case of the

petitioner already stands rejected vide order dated 24.11.2009. The relevant part of the said order reads as under:-

“5. Notification dated 07.12.2007, issued by the Department of Revenue and Disaster Management, regarding policy of Rehabilitation and Resettlement was implemented w.e.f 05.03.2005. In this policy, only those land acquisition cases are covered, wherein compensation was awarded on 05.03.2005 or thereafter. Petitioner Ishwar Singh’s land measuring 2 acres was acquired under Notification dated 17.06.2003 and 01.12.2003 of Government of Haryana (Department of Power) and award in respect of above-mentioned land was pronounced on 21.01.2014, meaning thereby, before the implementation of Rehabilitation and Resettlement Policy. In such manner, the case of Petitioner Sh Ishwar Singh does not cover under above-mentioned policy. Moreover, he is not entitled to get benefit under the policy of Rehabilitation and Resettlement.

6. Insofar as question regarding Petitioners’ land measuring 46 Kanals 8 Marlas as mentioned in C.W.P No.14086 of 2009, it was purchased by Haryana Power Generation Corporation Ltd., at the rate of 19.60 lakh rupees per acre in accordance with mutual agreement taken place between Petitioners and Haryana Power Generation Corporation Ltd (HPGCL) at Hon’ble High Court. Also, the above-mentioned land was not acquired by the Government. As such, the above-mentioned land does not cover under the above-mentioned policy of the Government, following which both Petitioners viz. Sh Ishwar Singh s/o Sh Bana and Krishna s/o Sh Harkesh r/o Village Sutana, Tehsil Madloda, District Panipat, are not entitled to get benefit/profit under the policy of Rehabilitation and Resettlement policy of the Government.

Accordingly, I dispose of Petitioners' legal notice dated 25.05.2009 in accordance with the directions of the Hon'ble Punjab and Haryana, High Court, Chandigarh."

Admittedly, the said order has not been challenged and the writ petition had been filed after a period of 5 years. It has further been mentioned that a sum of ₹58,06,500/- for selling land 23 kanal 14 marlas @ ₹19.60 lakhs per acre was also received by the petitioner and he neither demanded the benefit of any claim under the Land Acquisition Act, 1894. The plea of concealment has also been taken up by the respondents, apart from the fact that policy dated 07.12.2007 would only be effective from 05.03.2005.

The relevant part of the notification dated 07.12.2007, annuity clause and Clause 5 read as under:-

"No. 5451-R-V-2007/13258- The Governor of Haryana is pleased to formulate a policy for rehabilitation and resettlement of landowners- land acquisition oustees. The policy is given in Annexure 'A'.

1. The operational details, keeping in view the above policy, would be worked out by the respective departments and agencies.

2. This policy issues with the concurrence of the Finance Department conveyed vide their U.O. No. 1/17/2007-4FG-II/2395, dated 28th November, 2007.

3. The above policy may be brought to the notice of all concerned for compliance.

Xxxxxxxxxxxxxxxxxx

1. Annuity

(i) The land owners will be paid annuity for 33 years over and above the usual land compensation. The amount of annuity will be Rs. 15,000/- per acre per annum.

Xxxxxxxxxxxxxxxxxxxxxx

5. This policy will be applicable with effect from 5th March, 2005 and cover all those cases of acquisition in which awards of compensation were announced on or after 5th March, 2005.

It is not disputed that the sale deed dated 14.11.2008 was executed *inter se* the petitioner and respondent-Corporation, in pursuance of which order dated 21.11.2008 was passed. The policy in question which is dated 07.12.2007 is for rehabilitation and re-settlement for land owners/land acquisition oustees. The earlier chunk of land which was acquired was prior to the cut-off-date and the award was passed on 21.01.2014 which would be clear from the speaking order reproduced above.

In the present case, the petitioner has approached this Court with the plea that his land was being wasted on account of the acquisition of the adjoining portion. In view of the order passed by this Court, the respondent-Corporation purchased the land and, therefore, the applicability of the policy as such on the basis of which he seeks the concession of annuity would not be applicable, in view of the fact that the land was purchased at his request. It is not disputed that the order dated 24.11.2009 rejecting the annuity was never challenged and the present writ petition has been filed after considerable delay of more than 5 years. The writ petition is also liable to be dismissed on the ground of delay and laches, apart from the fact that proper facts have not been pleaded regarding the purchase and neither the sale deed had been placed on

record and there is concealment on part of the petitioner. The Constitution Bench of the Apex Court in '**Naraindas Vs. Government of M.P (1975) 3 SCC 31** held that if a wrong or misleading statement is deliberately and wilfully made by a party to the litigation with a view to obtain a favourable order, it would prejudice or interfere with the due course of judicial proceedings and thus amount to Contempt of Court.

In such circumstances, this Court is of the opinion that in view of the policy in question as such it would not be applicable to the petitioner and the reasons given in the orders dated 24.11.2009 and 28.01.2014 are well justified. The writ petition is also liable to be dismissed on the ground of delay, laches and concealment of facts.

Resultantly, there is no merit in the present writ petition and same is dismissed.

AUGUST 16, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No