

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

[1] Civil Writ Petition No.27525 of 2015
Date of Decision: March 09, 2017

Dharam SinghPetitioner
versus
State of Haryana and othersRespondents

[2] Civil Writ Petition No.4565 of 2016
Suresh KumarPetitioner
versus
State of Haryana and othersRespondents

[3] Civil Writ Petition No.4567 of 2016
Lal ChandPetitioner
versus
State of Haryana and othersRespondents

[4] Civil Writ Petition No.4574 of 2016
Gopi ChandPetitioner
versus
State of Haryana and othersRespondents

[5] Civil Writ Petition No.4580 of 2016
Ravi DuttPetitioner
versus
State of Haryana and othersRespondents

[6] Civil Writ Petition No.4589 of 2016
Sajan SinghPetitioner
versus
State of Haryana and othersRespondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

Present: Mr.Ashish Gupta, Advocate, for the petitioner(s)
Mr.R.D.Sharma, DAG, Haryana.
Mr.Deepak Manchanda, Advocate, for HSIIDC
(in CWP No.27525 of 2015
Mr.Pritam Saini, Advocate, for HSIIDC (in connected cases).

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Surya Kant, J. (Oral)

This order shall dispose of Civil Writ Petition Nos.27525 of
2015 and 4565, 4567, 4574, 4580 & 4589 of 2016 as point in issue involved
in all these cases is common in nature.

[2] For brevity, the facts are being extracted from CWP No.27525 of 2015.

[3] The petitioner seeks quashing of the order dated 28.10.2014/15.11.2014 (P-6) vide which his claim for allotment of a plot under the 'Oustees Policy' has been turned down on the ground that under the existing Rehabilitation and Resettlement Policy (for short, 'R&R Policy') dated 09.11.2010 (P-2) there is no provision for allotment of plots in case where the land is acquired by the State Government/its developing agency for 'infrastructure projects' including roads etc.

[4] Three parcels of petitioner's land measuring 45 kanal 13 marla, 44 kanal 2 marla and 2 kanal 10 marla, situated within the revenue estate of village Kookdola, Tehsil and District Gurgaon, have been acquired vide awards dated 10.05.2006, 11.08.2009 and 24.08.2009, respectively, for the construction and development of Express Highway Phase-6 and for KMP projects.

[5] The petitioner submitted an application on 23.12.2010 in the prescribed format for allotment of residential plot under the 'oustees quota' and appended all the documents including certificate re: acquisition of his land. No decision on that application was taken, hence he approached this Court by way of CWP No.11101 of 2014 which was disposed of by this Court with a direction to the respondents to consider and determine his claim in accordance with the Government policy by passing a reasoned order.

[6] In deference thereto, the impugned order has been passed rejecting the petitioner's claim on the ground that there is no provision in the R&R Policy dated 09.11.2010 for allotment of residential or commercial

plot to the land-owners whose land has been acquired for infrastructure project other than by Haryana Urban Development Authority (for short, 'HUDA'), Haryana State Industrial and Infrastructure Development Corporation (HSIIDC) or Haryana State Agricultural Marketing Board (HSAMB). Since land of the petitioner has been acquired for the construction and development of Express Highway Phase-6, namely a project of the State Government, HSIIDC has turned down his claim for allotment of plot under the R&R Policy. To say differently, if the acquired land of the petitioner was to be utilized for the construction of road/highways for the projects of HUDA, HSIIDC or HSAMB, he would have been entitled to allotment of plot under the 'oustees quota' in terms of the R&R policy.

[7] In this backdrop, the question which falls for consideration is whether an expropriated owner can be denied the benefit of a policy meant for rehabilitation of the oustees, only on the ground that his acquired land/property has not been utilized for a purpose mentioned in R&R Policy?

[8] Such a question firstly arose for consideration of this Court in

Harmail Singh & others vs State of Punjab & others 2013(2) PLR 234

where also the owners, whose land was acquired for the purpose of construction of sector-roads, parks, sewerage etc. in SAS Nagar Mohali, were denied the benefit of Ousteas Policy on the premise that the acquired land was not utilized for the development of residential/commercial plots. Such a reasoning was annulled by this court observing that it is not at all within the control of a land owner to insist that in the layout plan his acquired land should be earmarked or utilized for carving out of residential/commercial plots. Once the land is acquired, it vests in State free

from all encumbrances and it is the total discretion of the State Government or its Agencies as to how such acquired land is to be utilized for a public purpose.

[9] Harmail Singh's case (supra) has been followed by this Court in CWP No.23908 of 2012 (Surjit Kaur versus State of Punjab and others) decided on 22.04.2014.

[10] A similar view has again been taken by this Court in **Rambir and others vs State of Haryana and others** (CWP No.17511 of 2016) decided on 09.09.2016, where residential houses were acquired for the construction of “Southern Periphery Road” (SPR) in Gurgaon and the benefit of special rehabilitation package was sought to be denied to them on the ground that such benefit was admissible to only those land-owners whose land was acquired for “Northern Periphery Road” (NPR).

[11] The land-losers constitute one homogenous class within whom artificial classification is wholly impermissible. Since the expression 'Public Purpose' under the Land Acquisition Act, 1894 was of wide amplitude and the land could be acquired for any project which serves the cause of public at large or a section thereof, the affected owners could not be unreasonably classified in different groups on the basis of a fortuitous and incidental circumstance as to for what particular purpose his acquired land was utilized.

[12] In the light of the above discussion, it appears to us that there is no valid justification for the authorities to distinguish between the owners whose land is acquired for infrastructure project to be developed by HUDA, HSIIDC and HSAMB on one hand and viz-a-viz the owners whose land was acquired for similar infrastructure projects to be developed by the State

Government or any other State Agency.

[13] Faced with this learned counsel for HSIIDC informs that since the R&R Policy was formulated by the State Government in the Revenue and Disastrous Management Department, a reference has been sent to the State Government to reconsider the clarification and consequential modification of the Policy.

[14] We, thus, allow these writ petitions; set-aside the order dated 28.10.2014/15.11.2014 (P-6) and direct the State Government to reconsider its Policy decision in the light of the observations made herein-above and the decisions cited above, and take an appropriate decision within a period of four months from the date of receipt of a certified copy of this order.

[15] If the petitioner(s), whose land has been admittedly acquired for infrastructure projects, are held entitled to, their applications shall be re-considered on merits for allotment of the plots under the modified R&R Policy. Such a decision shall be taken within a period of two months from the date of decision of the State Government.

[16] If still aggrieved, the petitioner(s) shall be at liberty to approach the appropriate forum.

[SURYA KANT]
JUDGE

March 09, 2017
mohinder

[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No