

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2171 of 2018

- Fate Singh S/o Firanta, Aged About 50 Years R/o Village Katalbod, 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

WPC No. 2178 of 2018

- Paisha S/o Parmodhi, Aged About 82 Years, R/o Village Katalbod 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

WPC No. 2181 of 2018

- Awdhesh S/o Jairam Aged About 53 Years R/o Village Katalbod 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

WPC No. 2184 of 2018

- Chiraunji Lal S/o Paisha Aged About 58 Years R/o Village Katalbod 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

---- Respondents

WPC No. 2186 of 2018

- Pratap Singh S/o Udho Lodhi Aged About 68 Years R/o Village Katalbod 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

---- Respondents

For Petitioners
For Respondent-State

Shri Sudhir Agrawal, Advocate
Shri Shashank Thakur, GA

Hon'ble Justice Mr. Prashant Kumar Mishra

Order On Board

29/08/2018

1. Learned counsel for the petitioners would submit that due to implementation of "Dhaba Diversion Scheme", the petitioners' 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 them to take Rabi crops every year or provide alternative agricultural land for cultivation. He would further 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 petitioners are also entitled for similar relief.
2. Learned counsel for the State would submit that if the petitioners' 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 petitioners are required to submit representation before the authorities.

3. 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.”

4. Considering the fact that learned counsel for the State has not conceded to the petitioners' submission that their case is similar to the case of Pradeep Shukla (supra), the writ petitions are disposed of with a direction that the petitioners may move

representation before the respondent No.2, within a period of one month from today. The said officer shall consider and verify as to whether the petitioners' case is similar to the case of Pradeep Shukla (supra). If the petitioners' case is similar, the petitioners would be entitled to similar relief as has been granted in the case of Pradeep Shukla (supra). While deciding the representation, the respondent authorities shall do physical verification on the spot as to whether or not the lands belonging to the petitioners or any part thereof have actually submerged.

5. Accordingly, all the writ petitions stand disposed of.

Sd/-

Prashant Kumar Mishra
Judge

Nirala