

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

**CWP No. 26855 of 2014
Date of Decision:- 10.09.2019**

Labh Singh and another

...Petitioners

vs.

The State of Haryana and others

....Respondents

**CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present:- Mr. Sanjeev Sharma, Sr. Advocate with
Mr. Vikram Singh, Adocate, for the petitioners.

Mr. Ankur Mittal, Addl.A.G., Haryana.

SUDHIR MITTAL, J.

The petitioners are owners of some land situated in Village
Singhpura, Tehsil Safidon, District Jind.

2. Vide notification dated 23.8.2007 issued under Section 4 of the
Land Acquisition Act, 1894 (hereinafter referred to as the Act), a large
chunk of the land including the land of the petitioners was notified for
acquisition for the public purpose of development of residential and
commercial Sector 8, Safidon. The petitioners filed their objections dated
20.9.2007 under Section 5-A of the Act, which, according to the petitioners,
were never considered and notification dated 21.08.2008 was issued
under Section 6 of the Act. The said notifications were challenged by
the petitioners vide CWP No.13773 of 2009 and the same was disposed
of vide order dated 16.9.2013 with certain directions, a copy of which

has been annexed as Annexure P-6. Consequently, order dated 20.3.2014 has been passed by the Secretary-cum-Director General, Urban Estates Department, Haryana, rejecting the claim of the petitioners for release of land on the ground that their construction fell within the 75 meter wide peripheral road as well as 60 meter green-belt. The Chief Administrator, Haryana Urban Development Authority was, however, directed to provide an alternative site as per the Resettlement and Rehabilitation Policy dated 9.11.2010.

3. Through this writ petition, challenge has been laid to order dated 20.3.2014 as well as notifications issued under Sections 4 and 6 of the Act, on the ground that land of similarly situated persons has been released and that the impugned order is arbitrary and discriminatory.

4. Detailed written statement has been filed on behalf of the respondents, wherein order dated 20.3.2014 has been supported. It is averred that the entire land of the petitioners interferes with essential public utility services such as 75 meter wide peripheral road and 60 meter wide green belt and cannot be released in terms of the policy dated 24.01.2011. The objections filed under Section 5-A of the Act were rejected as the Land Acquisition Collector had reported that the land of the petitioners interfered with the planning of the Sector. It is also stated that while disposing of the original writ petition, the acquisition qua the petitioners' land was upheld and the direction was issued only to consider the release of the land which did not interfere with any public utility services. Thus, the petitioners cannot now seek quashing of the notifications issued under Sections 4 and 6 of the Act.

5. The petitioners have filed a replication to the written statement

wherein certain instances have been mentioned regarding release of vacant land or land falling in the green belt.

6. The argument of learned senior counsel for the petitioners is that the action of the State in not releasing the land of the petitioners is discriminatory inasmuch as even vacant land belonging to similarly situated persons falling into green belt has been released. The petitioners have raised construction on the acquired land and thus, the same is liable to be released in view of the policy of the State Government.

7. Relevant part of order dated 16.9.2013 passed in CWP No. 13773 of 2009 **Labh Singh versus State of Haryana**, earlier filed by the petitioners, is reproduced below:-

“5. We have considered the rival submissions made by counsel for the parties in the light of the site plan relied upon by them. We are satisfied that since the petitioner’s land is required for the above-mentioned public purpose, it cannot be released on the ground of parity merely because some other piece of land has been released by the respondents. Suffice it to mention that where the existing structure is needed for the construction or development of a vital ‘public utility’ like road, green belt etc., the respondents cannot be compelled to release the same as it would stall the very public purpose of acquisition. However, in such like case the respondents shall be bound to follow their Rehabilitation Policy dated 9.11.2010. The petitioner would thus be entitled to alternative site as per that policy. The writ petition is accordingly disposed of with a direction to the respondents that if the petitioner’s land is

utilised for the public purposes, in that event only that part of his land be released which is not needed or does not obstruct any of the notified public purposes and/or his claim for the allotment of alternative site in terms of the rehabilitation policy dated 9.11.2010 be considered and appropriate order be passed within a period of three months on receipt of copy of this order.”

8. The aforementioned order leaves no manner of doubt that the acquisition of the land of the petitioners was upheld. Limited directions were given to the State to act in accordance with the Rehabilitation Policy dated 9.11.2010 and allot an alternative site to the petitioners. It was further directed that in case the petitioners' land is un-utilised or does not obstruct any notified public purposes, the same be also considered for release.

9. Vide impugned order dated 20.3.2014, the Secretary-cum-Director General, Urban Estates Haryana, has found as a fact that the entire land of the petitioners falls within the 75 meter wide road and the 60 meter wide green belt. Learned senior counsel for the petitioners has not been able to show that this finding of fact is perverse. The argument only is that the action is discriminatory as land of similarly situated persons falling in the green belt has been released. This argument cannot be accepted in view of the fact that the acquisition of the land of the petitioners already stands upheld and the petitioners cannot be permitted to re-agitate the challenge to the acquisition. Even otherwise, Article 14 of the Constitution of India does not envisage negative equality and for this reason also the argument of learned senior counsel for the petitioners cannot be accepted.

10. For the aforementioned reasons, the writ petition has no merit and is accordingly dismissed.

(DAYA CHAUDHARY)
JUDGE

(SUDHIR MITTAL)
JUDGE

September 10, 2019
poonam

Whether Speaking/Reasoned	Yes
Whether Reportable	No