

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

**1. CWP No.555 of 2018
Date of decision: 21.11.2019**

Smt. Shakuntala Yadav and others ..Petitioners

Versus

State of Haryana and others ..Respondents

2. CWP No.554 of 2018

Smt. Shakuntala Yadav and others ..Petitioners

Versus

State of Haryana and others ..Respondents

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

Present: Mr. Daljit Singh Ahluwalia, Advocate
for the petitioners.

Mr. Rajesh K. Sheoran, Addl. A.G., Haryana
for the respondents.

Daya Chaudhary, J.

By this judgment of ours, two cases bearing CWP Nos.555 and 554 of 2018 shall be disposed of as common questions of law and facts are involved. However, for the sake of brevity, facts are being extracted from CWP No.555 of 2018.

Petitioners have approached this Court by way of filing the petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of impugned letter dated

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17.04.2017 (Annexure P-1) as well as *exparte* proceedings dated 16.01.2017 (Annexure P-2) being violative of principles of natural justice as decision has been taken without associating the petitioners and copy of the final decision taken by respondent No.2 has not been conveyed to the petitioners.

Briefly, the facts of the case as made out in the present writ petition are that the land of petitioners as well as of Millennium Industries was a part of 223-87 acres, which was notified under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act'). As per policy decision taken by the Finance Minister, Haryana vide letter dated 21.12.1981, two acres of land from the area of periphery of village Sarhaul was to be left out from the acquisition. On the basis of said policy decision, the land of the petitioners as well as the Millennium Industries located within the limit of two acres of *lal dora*, was released from the acquisition on 26.06.1982. The land acquired was reduced to 177.80 acres. Thereafter, notification under Section 4 of the Act was issued on 09.08.2004 acquiring land measuring 0.25 acres of the petitioners and said land was falling within two acres of *lal dora*. However, the land of Millennium Industries, which was on the similar footing, was not included in the acquisition. The award was passed qua 0.25 acres on 29.12.2005 but decision was not taken due to interim order passed in CWP No.14669 of 2005 on 15.09.2005. The request of the petitioners for releasing of their land was rejected vide order dated 28.03.2008. Thereafter, they filed CWP No.7706 of 2008 to challenge order of rejection before this Court, which was dismissed vide order dated 09.05.2008. Thereafter, review application No.399 of 2009 was filed, which was also dismissed on 04.12.2009.

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Aggrieved by the decision passed by this Court in the writ petition, SLP Nos.18800-18801 of 2010 was filed by the petitioners. Hon'ble the Apex Court vide judgment dated 09.03.2016 in Civil Appeal No.2174-75 of 2012, directed status quo on possession and set-aside the order of dismissing CWP No.7706 of 2008 as well as order passed in Review Application No.399 of 2009. The case was remanded back to respondent No.2 to consider the issue as to whether the land of petitioners was falling within two acres of lal dora and was covered by the policy framed by the Finance Department. In case, it was covered by the said policy, the same be released within a period of three months. The status quo was also ordered to be maintained till the decision was taken. On 16.01.2017, respondent No.2 called a meeting at the back of the petitioners and took final decision by not recommending release of 50% of the land of the petitioners apropos Survey No.52.

Learned counsel for the petitioners submits that the action of the respondents is not only illegal and unlawful but contrary to the policy. The land of Millennium Industries was released from the acquisition in the year 1982 by recording that his land was within two acres of lal dora and was covered by policy decision dated 21.12.1981 (Annexure P-3). Learned counsel further submits that the land of the petitioners was also at par with land of Millennium Industries but different treatment has been done. The adverse order was passed at the back of the petitioners in spite of the fact that the land of the petitioners was falling within two acres of lal dora of Village Sarhaul and complete land was not released. Learned counsel also submits that the proceedings/decision taken by the respondent authorities

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without hearing the petitioners, is nullity in the eyes of law and the same is liable to be set aside. Learned counsel also submits that the proceedings conducted on 16.01.2017 in violation of principles of natural justice, are bad in law. The policy applicable in case of the petitioners as well as sajra map showing location of the land and distance within lal dora, has not been taken into consideration. Learned counsel also submits that even copy of the decision taken by respondent No.2 has not been conveyed till date. Learned counsel also submits that total land of the petitioners was falling within two acres of lal dora.

Learned State counsel has opposed the submissions made by learned counsel for the petitioners but has not disputed the facts of the case. It has also not been disputed by learned State counsel that the decision was taken at the back of the petitioners. Learned State counsel further submits that the petitioners cannot claim parity with Millennium Industries and their case cannot be equated with the case of Millennium Industries Private Limited as land of Millennium Industries was never released by the State Government after issuance of notification under Section 4 of the Act. It was never the subject matter of acquisition process issued on 27.01.2003. The decision was taken after taking into consideration all the facts and circumstances of the case.

Heard arguments of learned counsel for the parties and we have also perused the documents available on the file.

Admittedly, the judgment/order passed in CWP No.7706 of 2008 by this Court was challenged before Hon'ble the Apex Court in Civil Appeal No.2174-2175 of 2012. The appeals filed by the petitioners were

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allowed and impugned orders passed by this Court were set-aside. The case was remanded to High Powered Committee (respondent No.2) for consideration afresh. It was also observed that in case, the land of the petitioners was within two acres of lal dora, as per policy of Finance Minister of Haryana, 1981, the same treatment be given as has been given to Millennium Industries Private Limited and to release the land of the petitioners within a period of three months. Status quo order was also passed in favour of the petitioners. It is not disputed that the claim of the petitioners was considered at their back or their representatives, which amounts to denial of principles of natural justice. Even the copy of decision was not conveyed to the petitioners.

It is a settled proposition of law that no one should be condemned unheard and notice is the first limb of this principle. In absence of such notice and granting reasonable opportunity, the order passed as such cannot be said to be just order. It is essential that a party should be put on notice of the case before passing any adverse order. It is one of the most important principles of natural justice. It is considered and approved rule of fair play. The order is not to be passed mechanically and at the back of the concerned authority.

In the present case, the order was passed at the back of the petitioners and without taking into consideration their submissions and parity with the case of Millennium Industries Private Limited, the issue involved requires to be reconsidered by the competent authority.

Accordingly, the present writ petitions are allowed and impugned orders dated 17.04.2017 (Annexure P-1) and 16.01.2017

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(Annexure P-2) in both the petitions are set-aside. Respondent No.2 is directed to reconsider the claim of the petitioners afresh within a period of six weeks from the date of receipt of certified copy of this order.

In case, the presence of the petitioners or their representatives is required, they be given opportunity of hearing.

(DAYA CHAUDHARY)
JUDGE

21.11.2019
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No