

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 592 of 2019

Reserved on 01/09/2020

1. Laxmi Jaiswal, S/o Late Shri Shivnarayan Jaiswal, Aged About 48 Years, R/o Mahavir Chowk, Beltra, District : Bilaspur, Chhattisgarh Pincode 495449
2. Ramesh Kumar Jaiswal, S/o Late Shri Sundarlal Jaiswal, Aged About 44 Years, R/o Jaiswal Mohalla Beltara, District : Bilaspur, Chhattisgarh , Pincode 495449
3. Suresh Kumar Kashyap, S/o Late Shri Lakhalal Kashyap, Aged About 47 Years, R/o Jagi Road Beltara, District : Bilaspur, Chhattisgarh, Pincode 495449
4. Sushil Kumar Sharma, S/o Late Shri Ramkishore Sharma, Aged About 57 Years, R/o Bajrang Chowk Beltara, District Bilaspur Chhattisgarh Pincode 495449
5. Devkumar Dhiwar, S/o Late Shri Duwasiram Dhiwar, Aged About 48 Years, R/o Jagi Road, Beltara, District Bilaspur Chhattisgarh Pincode 495449
6. Naresh Jaiswal S/o Late Shri Sundarlal Jaiswal Aged About 36 Years R/o Jaiswal Mohalla, Beltara, District Bilaspur Chhattisgarh Pincode 495449

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Collector, Bilaspur District Bilaspur Chhattisgarh Pincode 495001
2. Land Acquisition Officer- Cum- Sub Divisional Officer (Revenue) Tahsil Bilaspur, District : Bilaspur, Chhattisgarh
3. National Highway Authority Of India Through Office Of Project Director Project Implementation Unit Bilaspur D-61, HIG -I, Abhilasha Parisar Behind Hitech Bus Stand Tifra, Bilaspur Chhattisgarh 495001

4. Union Of India Through Ministry Of Road Transport And Highways, Government of India, 1 Sansad Marg, Gokul Nagar Connaught Place New Delhi, Delhi 110001
5. Gram Panchayat-Beltra Through The Secretary Gram Panchayat Beltara, District: Bilaspur, Chhattisgarh 495449

---- Respondents

WPC No. 603 of 2019

1. Vinod Kumar Jaiswal S/o Shri Durga Prasad Jaiswal Aged About 40 Years R/o Kalarpara, Beltara, District Bilaspur, Chhattisgarh. Pincode 495449
2. Durga Prasad Jaiswal S/o Late Shri Jamuna Prasad Jaiswal Aged About 70 Years R/o Kalarpara, Near Hanuman Mandir Beltara, District Bilaspur, Chhattisgarh. Pin Code 495449
3. Sharad Jaiswal S/o Late Durga Prasad Jaiswal Aged About 45 Years R/o Kalarpara, Beltara, District Bilspur, Chhattisgarh. Pincode 495449
4. Ramsnehi @ Raju Yadav S/o Parasram Yadav Aged About 30 Years R/o Patharipara, Beltara, District Bilaspur C.G. Pincode 495449

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Collector, Bilaspur, District Bilaspur Chhattisgarh. Pincode - 495001
2. Land Acquisition Officer Cum Sub Divisional Officer, (Revenue), Tahsil Bilaspur, District Bilaspur Chhattisgarh. 495001
3. National Highways Authority Of India Through Office Of Project Director Project Implementation Unit, Bilaspur, D-61, HIG -I, Abhilasha Parisar, Behind Hitech Bus Stand, Tifra, Bilaspur, Chhattisgarh. 495001
4. Union Of India Ministry Of Road Transport And Highways, Government Of India, 1 Sansad Marg, Gokul Nagar, Connaught Place, New Delhi, Delhi - 110001
5. Gram Panchayat Beltara Through The Secretary, Gram Panchayat, Beltara, District Bilaspur Chhattisgarh. 4954496

---- Respondents

WPC No. 604 of 2019

1. Ramesh Kumar Jaiswal S/o Late Shri Sundarlal Jaiswal Aged About 44 Years R/o Jaiswal Mohalla Beltara, District Bilaspur, Chhattisgarh. Pin Code-495449
2. Umlesh Jaiswal S/o Late Shri R. K. Jaiswal Aged About 38 Years R/o Kalarpara, Beltara District Bilaspur, Chhattisgarh. Pin Code 495449
3. Subrat Soni S/o Late Shri Bhagatram Soni Aged About 38 Years R/o Near Hanuman Mandir, Beltara, District Bilaspur, Chhattisgarh. Pin Code-495449
4. Sushil Kumar Sharma S/o Late Shri Ramkishore Sharma Aged About 57 Years R/o Bajrang Chowk Beltara, District Bilaspur, Chhattisgarh. Pin Code-495449
5. Naresh Sarthi S/o Shri Sawan Sarthi Aged About 32 Years R/o Behind High School Sarthi, Mohalla Beltara, District Bilaspur, Chhattisgarh. Pin Code-495449

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Collector Bilaspur, District Bilaspur, Chhattisgarh. Pin Code 495001
2. Land Acquisition Officer Cum Sub Divisional Officer, (Revenue) Tahsil Bilaspur, District Bilaspur, Chhattisgarh. 495001
3. National Highways Authority Of India Through Office Of Project Director Project Implementation Unit, Bilaspur, D-61, HIG-I, Abhilasha Parisar, Behind Hitech Bus Stand, Tifra, Bilaspur, Chhattisgarh. 495001
4. Union Of India Through Ministry Of Road Transport And Highways Government Of India, 1, Sansad Marg, Gokul Nagar, Connaught Place, New Delhi, Delhi-110001
5. Gram Panchayat Beltara Through The Secretary, Gram Panchayat Beltara, District Bilaspur, Chhattisgarh. 495449

---- Respondents

WPC No. 605 of 2019

1. Deepak Kumar Jaiswal S/o Shri Vijay Kumar Jaiswal Aged About 30 Years R/o Jaiswal Mohalla, Beltara, District- Bilaspur, Chhattisgarh- 495449
2. Tashrif Mohammad S/o Late Shri Peer Mohammad Aged About 53 Years R/o Santoshi Mandir, Kalarpara, Beltara, District- Bilaspur, Chhattisgarh.Pin- 495449
3. Nandkishore @ Nand Kashyap S/o Shri Johanlal Kashyap Aged About 37 Years R/o Jagi Road, Beltara, District- Bilaspur, Chhattisgarh Pin- 495449

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Collector, Bilaspur, District- Bilaspur, Chhattisgarh
2. Land Acquisition Officer-Cum-Sub- Divisional Officer (Revenue) Tahsil- Bilaspur, District- Bilaspur, Chhattisgarh
3. National Highways Authority Of India Through Office Of Project Director Project Implementation Unit, Bilaspur, D-61, Hig-I, Abhilasha Parisar, Behind Hitech Bus Stand, Tifra, Bilaspur, Chhattisgarh- 495001
4. Union of India Through Ministry Of Road Transport And Highways, Government Of Indai, 1 Sansad Marg, Gokul Nagar, Connaught Place, New Delhi,- 110001
5. Gram Panchayat Beltara Through The Secretary, Gram Panchayat, Beltara, District- Bilaspur, Chhattisgarh- 495449

---- Respondents

WPC No. 751 of 2019

1. Kamal Kumar Soni S/o Shri Ramkumar Soni Aged About 44 Years R/o House No.50, Barbhata Para, Beltara, District- Bilaspur, Chhattisgarh Pincode- 495449

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Collector, Bilaspur, District- Bilaspur, Chhattisgarh Pincode- 495001

2. Land Acquisition Officer-Cum-Sub-Divisional Officer (Revenue)
Tahsil- Bilaspur, District- Bilaspur, Chhattisgarh.- 495001
3. National Highways Authority Of India Through Office Of Project
Director Project Implementation Unit, Bilaspur, D-61, HIG-I, Abhilasha
Parisar, Behind Hitech Bus Stand, Tifra, Bilaspur, Chhattisgarh.-
495001
4. Transport And Highways Government Of India, 1 Sansad Marg,
Gokul Nagar, Connaught Place, New Delhi, Delhi- 110001
5. Gram Panchayat Beltara Through The Secretary, Gram Panchayat,
Beltara, District- Bilaspur, Chhattisgarh.- 495449

---- Respondents

For Petitioners	:	Mr. Sangharsh Pandey, Advocate
For State/ Resp. No. 1 & 2	:	Mr. Mateen Siddiqui, Dy. Adv. General
For UoI & N.H.A.I.	:	Mr. B. Gopa Kumar, Asst. S.G.
For Respondent No. 5	:	Mr. Asish Surana, Advocate

WPC No. 3227 of 2019

1. Veenadevi Soni, W/o - Shri Santosh Kumar Soni, Aged About 48
Years, R/o - Village Beltara, Tahsil Bilaspur, District Bilaspur
Chhattisgarh Pincode- 495449

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Collector, Bilaspur, District
Bilaspur Chhattisgarh Pincode - 495001
2. Land Acquisition Officer- Cum-Sub Divisional Officer, (Revenue),
Tahsil Bilaspur, District Bilaspur Chhattisgarh 495001
3. National Highway Authority Of India, Through Office Of Project
Director, Project Implementation Unit, Bilaspur, D-61, HIG-1,
Abhilasha Parisar, Behind Hitech Bus Stand Tifra, Bilaspur
Chhattisgarh 495001
4. Union Of India Through Ministry Of Road Transport And Highways
Government Of India, 1 Sansad Marg Gokul Nagar, Connaught Place,
New Delhi, Delhi 110001

5. Gram Panchayat Beltara, Through The Secretary, Gram Panchayat, Beltara, District Bilaspur Chhattisgarh 495449

-----Respondents

For Petitioners	:	Mr. Sangharsh Pandey, Advocate
For State/ Resp. No. 1 & 2	:	Mr. Mateen Siddiqui, Dy. Adv. General
For Respondent No. 3/NHAI	:	Mr. Dheeraj K. Wankhede, Advocate
For Respondent No. 5	:	Mr. Ashish Surana, Advocate

Hon'ble Shri Justice P. Sam Koshy

Judgment

Delivered on: 21.09.2020

1. These six writ petitions are common in nature. The action under challenge and relief sought for and the parties to the dispute except for the petitioners, all are same hence this Court proceeds to decide this bunch of writ petition by a common order.
2. The challenge in the present writ petitions is to the notice Annexure P-1 dated 07.02.2019. In all the writ petitions issued by the National Highways Authority asking the petitioners to vacate the shops which are being operated by the petitioners in four different shopping centers, as the land over which the shops are situated has been acquired by the National Highways Authorities for the widening and construction of Bilaspur-Katghora National Highway No. 130 (old NH No. 111).
3. The dispute in the present bunch of writ petitions revolves around four markets with small shops allotted to the petitioners. All the four market belong to the Gram Panchayat-Beltara, District: Bilaspur. The four markets are known as :-

- (a) Vyavsayik Parisar
- (b) Gram Panchayat Bhawan

(c) Atal Vyavsayik Parisar

(d) New Vyavsayik Parisar near Tahsil office.

4. In all these six writ petitions, there are 20 petitioners 06 petitioners occupy Vyavsayik Parisar, 04 petitioners are in possession of shops in Gram Panchayat Bhawan, 07 petitioners occupy shops in the Atal Vyavsayik Parisar and 03 petitioners occupy shops at New Vyavsayik Parisar near Tahsil Office.
5. According to the counsel for the petitioners, the petitioners were granted lease over the said shops for a period of three years with renewable clause and the petitioners have been paying the Municipal Rent regularly. According to the petitioners, they have got the said shops on payment of certain premium and these shops were their only source of livelihood and their families also depends upon the income derived from the said shops. The lease deed in-respect-of the different shops were executed on different dates. The oldest being the lease executed by the petitioners, who occupied the shops in the Vyavsayik Parisar. The initial lease was executed in the year 2002, whereas the other market places were constructed at a later stage and the lease was also executed later.
6. The grievance of the petitioners now is that the respondent-authorities for the purpose of construction and widening of Bilaspur-Katghora National Nighway No. 130 (old No. 111) had acquired the area over which the shops in possession of the petitioners belonging to the Gram Panchayat was acquired. These properties of the Gram Panchayat were acquired by the National Highways Authorities under the National Highways Act, 1956 (in short, hereinafter referred as

“Act, 1956”). That subsequently, the notices were issued directing the petitioners to vacate the premises, failing which, the respondents themselves would be initiating the demolition of the structure. The petitioners rushed to the High Court by filing the present writ petition and this Court vide order dated 19.02.2019 granted interim protection to the petitioners restraining the respondents from dispossessing the petitioners from the said shops. The interim protection since then is continuing and the petitioners are also enjoying the fruits of interim protection till now.

7. According to the counsel for the petitioners, since the petitioners are in possession of the said shops for a considerable period of time, the petitioners would fall under the purview of “Right to User” and also fall within the definition of “affected persons” and thereby the petitioners would be entitled for, firstly compensation for being displaced from the place where they were earning their livelihood and secondly, the petitioners should have been granted some alternative land or shop where they could have reestablish their shop in order to sustain themselves.
8. The contention of the counsel for the petitioners further is that the respondents have not paid any compensation whatsoever to the petitioners nor have they provided/taken any rehabilitation measures ensuring re-settlement of the petitioners and, therefore, unless these two facts that is payment of suitable compensation and appropriate rehabilitation package is not provided, the respondents cannot insist upon the petitioners to vacate the premises. The counsel for the petitioners heavily relied-upon the Rehabilitation Policy in-respect-of

those persons whose Right of Enjoyment of the land has been affected, framed by the State of Chhattisgarh, demanding for both compensation and for rehabilitation measures. According to the counsel for the petitioners, the petitioners also ought to have received adequate compensation as per the provisions of the Act, 1956; wherein Section 3 (g) envisages determination of amount payable as compensation. In support of his contention, the learned counsel for the petitioners strongly relied-upon the judgment of the Supreme Court in the case of **Sayyed Ratanbhai Sayeed & Ors. vs Shirdi Nagar Panchayat & Anr. (2016) 4 SCC 631.**

9. Referring to the aforesaid judgment, the counsel for the petitioners submitted that in the light of the principles of law laid-down in the case of **Sayyed Ratanbhai Sayeed (supra)** Right to Claim Compensation is built under Article 300 (A) of the Constitution of India and further that Right to Livelihood has been held to be an integral part of Right to Life and therefore the petitioners also have the protection under Article 21 of the Constitution of India.
10. According to the counsel for the petitioners, the petitioners are not averse to the developmental project but their only demand is that they should be suitably compensated and rehabilitated, failing which, the petitioners would be losing their source of income and thereby the petitioners and the members dependent upon them would find it difficult to sustain themselves. As such, the action on the part of the respondents would be hit by the provisions of Article 21 of the Constitution of India. According to the counsel for the petitioners, the fact that the petitioners are not being paid any compensation nor are

they being provided with any re-settlement for rehabilitation. The same would be violative of the Model Rehabilitation Policy and the guidelines framed therein.

11. Referring to the said Rehabilitation Policy, the petitioners claim themselves to be within the category of persons who are defined under the Clause 2.1 (b) which refers to affected persons, as also under the category defined in clause 2.1 (c) and they would also fall under the category of persons defined in clause 2.1 (d) which refers to displaced persons. Further it was the responsibility of the National Highway Authority itself to bear the expenses which would be incurred in the course of re-settlement of the petitioners as a rehabilitation measure.

12. In addition, the counsel for the petitioners also relied upon the judgment of the Supreme Court in the case of ***Union of India & Anr. vs. Tarsem Singh & Ors. (2019) 9 SCC 304***; wherein the Supreme Court has amended the requirement of payment of solecism and interest also to the affected/displaced persons. There was yet another case, which was relied upon by the petitioners that is that case of ***Ashutosh Agrawal vs. Union of India, Writ Appeal No. 7 of 2019***, decided on 06.12.2019; wherein it has been held that the affected/displaced persons should be compensated invoking the provisions of “Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Re-settlement Act, 2013”. With the aforesaid submissions, the petitioners prayed for a direction to competent authority to determine the amount of compensation payable to the petitioners with a further direction to provide

alternative shops as a rehabilitation measure. In addition to the aforesaid, the petitioners have also prayed for a direction not to pay any compensation to the Gram Panchayat against the acquisition of those shops and also to quash the notice dated 07.02.2019 issued by the National Highway Authorities.

13. Opposing the petitioner, the Deputy Advocate General submits that none of the petitioners on the date of acquisition had a valid lease in their favour. According to the State counsel, all the lease which were executed in-respect-of the petitioners had already expired and in none of the case was it renewed. Therefore, the petitioners had no right whatsoever to claim any compensation. According to the State Counsel, they were not bonafidely retaining the shops beyond the period of lease, which were executed in their favour. It was also the contention of the State counsel that it is a case where the acquisition of the land took place in the year 2017, the land over which the shops were constructed admittedly belonged to the Gram Panchayat-Beltara. The award of the acquisition was also passed in favour of Gram Panchayat- Beltara and the entire amount of the compensation awarded under the award has already been paid to the Gram Panchayat and therefore there is no procedural lapse or illegality; so far as the acquisition is concerned, as also so far as the payment of compensation is concerned. Drawing the attention of the clause to 3 (r) of the "Right to Fair Compensation Act, 2013" submitted that the Gram Panchayat-Beltara would in the given factual backdrop be the land owner and thereby they have been rightly paid the compensation. According to the State counsel, since the petitioners

were there in the shops only as a tenant or as a lessee, they do not have a right and more particularly, when the lease itself has expired in all of the cases, they do not have any indefeasible right created in their favour seeking for relief that has been prayed for.

14. Similar set of arguments have also been advanced by the Assistant Solicitor General Shri B. Gopa Kumar appearing for the Union of India as also for the National Highway Authority. The learned Assistant Solicitor General (hereinafter A.S.G.) also raised the objection of petitioners not having any locus in filing of the present writ petitions. According to the A.S.G. none of the petitioners herein had a proper and valid lease in their favour and in all the cases, lease which were executed earlier, its period had expired and were not renewed and, therefore, the petitioners could not be called or have the status as “lessee”.

15. Referring to the provisions of Transfer of Property Act Section 105 and 108, the contention of the A.S.G. is that once when the lease gets expired, the right of the petitioners in whose favour the lease were executed also ceases. It was also the contention of the A.S.G. as was the contention of the State counsel that in an acquisition proceedings, the beneficiaries would always be the land owners and in the instant case, the land owner is the Gram Panchayat and therefore, the acquisition proceedings were drawn noticing the Gram Panchayat and finally the award was passed in the year 2018. According to the A.S.G. as per the award, the entire compensation has been deposited and paid to the land owners. It was further contented that since the National Highway Authorities have already

paid the compensation once to the land owners, there cannot be a further direction asking the National Highway Authorities to pay compensation for the second time to a different set of people for the same piece of property.

16. According to the A.S.G. after the acquisition proceedings are over and the award has been passed, the land now vests with the Central Government for the specific purpose of construction and widening of the National Highway No. 130 (old No. 111). It was also submitted that the construction and widening of the said road is part of the National Development Policy of the Central Government and the Central Government and the National Highway Authorities have already started the construction of the said National Highway and substantial work has already been executed and this small chunk of land in dispute in the present writ petitions is becoming a bottleneck for the smooth construction of the whole project because of the interim protection granted by this Court.

17. Learned A.S.G. referring to the judgment of ***Saiyyad Ratanbhai*** case submitted that the said judgment is distinguishable on the facts itself where the ratio of principle of law laid-down was under an entirely different contextual background totally different to the facts of the present case. It was also the contention that the entire acquisition proceedings have been drawn strictly in-accordance-with the provisions of the Act, 1956 and there being no challenge to the award so passed, the same has attained finality and as such, the petitioners do not have any right to claim any further compensation in addition to what has been passed in the award.

18. In continuation to the submission put forth by the ASG, Shri Dhiraj Wankhede, advocate appearing for the National Highway Authorities in one of the writ petitions, endorsing the argument of the ASG further added that the entire acquisition proceeding has been carried out strictly in accordance with the provisions of the National Highways Act and that there is no challenge to the award by any person including the petitioners and the award has since attained finality. According to Shri Wankhede, since the petitioner in his writ petition did not have a valid lease in operation when the impugned notice dated 07.02.2019 was issued, the petitioner as such could not have any grievance. He submits that in any case the petitioner is not either the land owner or the owner of the shop. The land owner as well as the shop owner was the Gram Panchayat, Beltara who do not have any objection so far as the acquisition of the said land and the award so passed is concerned nor do they have any objection in the demolition of the said shops.
19. According to Shri Wankhede, the status of the petitioner was only that of a tenant or a lease holder and that too for the extent the petitioner had the lease or tenancy in her favour which in all the cases has already expired and was not renewed again. The fact that it was not renewed would also be for the reason that the Gram Panchayat were aware of the project of construction and widening of the road taking place and were aware of their land getting acquired and therefore they might have deliberately not renewed it. According to Shri Wankhede, the entire writ petition itself is totally misconceived for the reason that undisputedly the acquisition proceeding under the

National Highways Act was initiated, the award was also passed, the compensation was also quantified and the land owners have been paid with the compensation quantified by the respondents. Therefore, now the occupiers in the said property cannot claim for another set of compensation to be borne by the National Highway Authorities. It was further contended that the award having attained finality and the compensation having been paid to the respective land owners, the acquisition proceeding has also attained finality and thereafter the property stands vested with the Central Govt. which also is a sufficient ground for rejecting the claim of the petitioner holding it to be devoid of merits.

20. Further opposing the petitions counsel for the Gram Panchayat Shri Ashish Surana also submitted that in none of the cases there was a valid lease available or in operation in favour of any of the petitioners and therefore, the petitioners cannot be said to be bonafidely occupying the shops beyond the lease period. According to Shri Surana, there was also a deliberate default in payment of lease rent by each of the petitioners which also disentitles them from receiving any sympathetic consideration from this Court or any legal indefeasible right in their favour. Learned counsel for the Gram Panchayat referred to R-5/2 which reflects the outstanding lease rent on the part of each of the petitioners.

21. Learned counsel for the Gram Panchayat would submit that considering the fact that the petitioners were at one point of time occupying the shops of the Gram Panchayat by way of duly executed lease and taking a sympathetic view, the Gram Panchayat had

offered shops to the petitioners in a nearby market which again was the construction of the Gram Panchayat, subject to the petitioners fulfilling the terms and conditions they were given priority for allotment of the shops. This according to the counsel for the Gram Panchayat was to ensure that the petitioners are not put to any loss and they could easily resettle or rehabilitate if they choose for the same.

22. Shri Surana submits that after the offer was made, one of the petitioners i.e. petitioner no.4 namely Susil Kumar Sharma in WPC No. 592/2019 accepted the offer made by the Gram Panchayat and executed a lease deed and took possession of a shop nearby and since then he has been operating the same. At the same time, counsel for the Gram Panchayat submits that none of the other petitioners participated in the allotment so offered and therefore, they could not be allotted any shop. This again means that these petitioners were not interested to have a shop in the market which was offered to them. According to the counsel for the Gram Panchayat, in view of the fact that the petitioners had willingly refused to accept the offer of an alternative shop subject to acceptance of the terms and conditions, there could not have been anything else which the Gram Panchayat could have offered.

23. At this juncture counsel for the Gram Panchayat submits that out of the 20 shops which they had for the 20 petitioners in these six writ petitions, since there was a refusal on the part of all except for petitioner no.4 in WPC No. 592/2019, the Gram Panchayat have put the property for further auction and they have given to other persons.

However, counsel for the Gram Panchayat submits that as of now there are 6 more shops left which can still be offered to the petitioners subject to their applying for the same and accepting the terms and conditions.

24. Having heard the contentions put forth on either side and on perusal of the records, the undisputed facts are that there were some market complex constructed by the Gram Panchayat, Beltara for which the petitioners had applied for allotment. Since the petitioners had accepted the terms and conditions of the Gram Panchayat including payment of premium amount and the monthly rent, each of the petitioners were allotted a shop. The allotment was by way of a lease for a specific period. Admittedly, the lease executed with each of the petitioners in all the 6 petitions stood expired and it was not renewed. In between, the respondents decided to widened the National Highway considering the pressure of vehicles commuting on the said road and thereby the authorities initiated acquisition proceeding under the provisions of the National Highways Act. The proceedings were drawn, notifications under Section 3 A of the NH Act were published on 01.09.2017 and the proceedings finally culminated. After the final award was passed the entire compensation amount quantified was paid to the Gram Panchayat which they have also received and thereafter the possession over the land also stood vested with the Central Govt.
25. Now the question to be considered in this factual backdrop is that whether the petitioners would be entitled for any further

compensation for the land which has been acquired by the National Highway authorities?

26. It should not be forgotten that the petitioners were all occupying the shops owned by the Gram Panchayat as a lessee. Under the normal circumstances, the compensation from the said acquisition proceeding is paid to the land owner. There is no dispute of the land owner in the present cases being compensated.
27. It is also relevant at this juncture to mention that the shops involved in the present writ petitions occupied by the petitioners is located in a rural backdrop. There is also no dispute which has culled out from the submissions made by the counsel for the Gram Panchayat that each of the petitioners was offered to accept the shop in nearby vicinity by the Gram Panchayat on priority basis subject to their accepting the terms and conditions of the Gram Panchayat. Except for one all other petitioners refused to accept the same.
28. One must appreciate the fact that the petitioners were in any case operating only small shops and it was not a large chunk of agricultural land which they were cultivating which has been acquired. That all the petitioners were granted an alternative shop from where they could continue their business that they were running from the present place of shop. The fact that they were offered alternative shops amounts to an offer of resettlement and rehabilitation on the part of the respondents. The petitioners herein could not have dictated terms of resettlement or rehabilitation. Another fact which should not be lost sight of is that, the purpose of acquisition is in fact for the larger interest of the State whereby the

respondents have decided to improve the infrastructure in the State and with that intention they have decided to construct and widen the Bilaspur-Katghora National Highway and for the said purpose acquisition of land becomes inevitable.

29. It is necessary at this juncture to consider the larger public interest in mind particularly when the acquisition has been done for the public purpose. Once when the acquisition proceeding in accordance with the Act has been initiated and finalized, the compensation has to be paid to the land owner which in the instant case has been done.
30. So far as taking care of the interest of the petitioners are concerned, one cannot ignore the gesture shown on the part of the Gram Panchayat by offering alternative shops in nearby vicinity ensuring rehabilitation and resettlement which has been refused by the petitioners with there insistence for only compensation. It is also pertinent to take note of the fact that even at the present place where the petitioners were operating the shops, they had been allotted the same subject to their accepting the terms and conditions stipulated by the Gram Panchayat. Though initially they had paid the premium amount and were also required to pay the monthly rent and which they had been paying for a considerable period of time, thereafter the petitioners started defaulting and there is a default in payment of rent by all the petitioners now for a very long time. In spite of this, the Gram Panchayat had offered shops to the petitioners on priority basis in nearby vicinity. If the petitioners have refused to accept the offer made by the Gram Panchayat, it has to be safely presumed that the petitioners were not interested in running their business from the

shop offered to them. They were more interested in only monetary compensation when they had in fact no indefeasible right over the shops or the land over which the shops were situated.

31. If the petitioners have willingly with wide open eyes refused the offer of alternative shops by the Gram Panchayat, they cannot now turn around and cry foul of being deprived of their livelihood nor can under such circumstance be it held as violative of Article 21. The National Highways Act. section 3 G envisages the payment of compensation to the owner and some amount to any other person whose right of enjoyment in that land has been affected. It is in this context that we need to consider the offer made by the Gram Panchayat of an alternative shop nearby which itself means that the authorities had in fact taken care of the need of the petitioners but it was the petitioners who had refused to accept the offer. If the petitioners had accepted the shops allotted to them, the status of the petitioners would have been restored as lessee of the Gram Panchayat or as tenant.
32. The State authorities inclusive of the national highway authorities, in land acquisition matters, cannot be considered as a milking cow whereby the state authorities inclusive of the national highway authorities should be asked to pay compensation to different persons for the same piece of land. In any case, the premium paid by the petitioners is already there with the Gram Panchayat. They could have simply accepted the offer made by the Gram Panchayat and asked the authorities for accepting the premium amount paid for the present shop to be adjusted against the premium for the new shops offered or could have easily negotiated with the Gram Panchayat.

This further means that the petitioners were not interested in the offer so made by the Gram Panchayat and they were not serious enough to continue with their business from the alternative shop in the same vicinity.

33. As regards the judgment of Sayyed Ratanbhai (Supra) relied upon by the petitioners is concerned, a plain reading of the initial paragraphs of the judgment itself would reveal that the said judgment has been passed under an entirely different contextual background unlike the one in the present writ petition. In the said writ petition admittedly a right was created in favour of those occupying the property by way of settlement entered into between the parties. In the said contextual backdrop the judgment was passed protecting the interest of those occupants over the said property. The judgment rendered under the said contextual backdrop cannot be applied as a straight jacket formula to the facts of the present case and the same cannot be applied for granting any relief to the petitioners.
34. Another reason why the judgment of Sayyed Ratanbhai (Supra) or the ratio of principle of law laid down in that judgment would not be attracted in the facts of the present case is that apart from there being a settlement between the parties arrived at as referred to in the preceding paragraphs. There was yet another fact which weighed more in the mind of the Court was that the occupiers of the shop had occupied the shop way back in the year 1970 unlike in the present case where the petitioners have occupied these shops not for long and more over there was a compromise decree in favour of the

petitioners in those writ petitions such is not the facts of these petitions.

35. Considering the fact that except for petitioner No.4 in WPC 592/2019 none had shown their willingness to accept the offer made by Gram Panchayat therefore, the shops which were kept reserved for the petitioners has since been auctioned and third party right have been created, therefore, the petitioners now cannot be resettled or rehabilitated against the said shops.
36. Learned counsel for the Gram Panchayat, Mr. Ashish Surana has however fairly accepted the fact that there are still six more shops lying vacant in the nearby vicinity.
37. Given the fact that 6 persons out of 19 petitioners can still be accommodated in these six shops, the Gram Panchayat is directed to put up these shops for auction to the 19 petitioners and whoever quotes the maximum the same be allotted to them and for the 13 persons who were left out, the Gram Panchayat may explore the possibility of construction of another market or a shopping center, and if at all such a construction is raised the left out 13 persons may be given some preferential treatment in the course of allotment of shops subject to they fulfill the other requisite conditions and norms.
38. In view of the observations and directions given in the preceding paragraph of the writ petitions at this juncture therefore stands disposed of holding that the petitioners would not be entitled for any compensation. The shops which are in possession of the petitioners are is required and directed to be vacated immediately as the area is required for the construction and widening of the Bilaspur-Katghora

National Highway. The petitioners are directed to vacate the premise within a period of 45 days from the date of receipt of copy of this order. Meanwhile, respondent No.5 Gram Panchayat also is directed to take steps for auctioning those shops lying vacant to the 19 petitioners who are left out, that too if at all they are interested in, for which the petitioners shall have to make appropriate application. The Gram Panchayat upon such application being made, steps should be taken promptly. In the event, if six of the petitioners are successful in getting the vacant shops the premium in the previous shops lying deposited with the respondent Gram Panchayat may be adjusted thereby making the petitioners to deposit only the difference of premium money if any. The direction for the Gram Panchayat to offer the remaining six shops to the petitioner also is in consonance to the relief No. 10.3 that the petitioners have sought for seeking for alternative shops as a rehabilitation measure.

39. With the aforesaid observations, all these writ petitions, accordingly stand disposed of.

**Sd/-
(P. Sam Koshy)
Judge**