

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-6244-2017

Date of decision: 27.01.2020

Kavish

...Petitioner(s)

V/s.

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Aman Pal, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl.A.G., Haryana.

RITU BAHRI, J. (Oral).

By this petition, the petitioner is seeking quashing of order dated 16.02.2017 (Annexure P-9) passed by respondent No.2 vide which the claim of the petitioner after acquisition of land, has been rejected under the R&R policy.

The facts of the present case are that the father of the petitioner expired in 2005 and the land owned by father of the petitioner was mutated in his name and his mother in 2005 itself.

The Government of Haryana vide notification dated 03.12.2009 acquired 22 Kanals 12 Marlas of land situated in khasra No. 359 belonging to the petitioner and his mother for setting up 2nd Water Works, Hansi Town. The award was passed on 16.09.2010 (Annexure P-1). Thereafter petitioner made application in 2012 for getting job under the R&R Policy/notification dated 09.11.2010. Annexure P-2 is the copy of policy. The case of the petitioner alongwith 5 others was recommended by respondent No. 4 vide

letter dated 26.06.2012 (Annexure P-3). Pursuant to this letter, 5 persons have been granted job on 07.03.2014. However, the case of the petitioner was kept pending. Finally on 06.11.2016, petitioner made a representation to respondent No. 2 regarding his claim (Annexure P-4). Thereafter petitioner approached this Court by way of CWP-1442-2017 which was disposed of on 27.01.2017 (Annexure P-7) by giving direction to the respondent No. 2 to decide the claim of the petitioner. Pursuant to this order, claim of the petitioner has been rejected vide order dated 16.02.2017 (Annexure P-9) on the ground that the total land acquired is only 0.7 kanal, 10 marlas which is less than 2 Acres. Order dated 16.02.2017 rejecting the claim of the petitioner has been further clarified in the written statement whereby it is stated that the land of the petitioner was 5 Kanal 13 Marla (wrongly mentioned in the impugned order as 0.7 Kanal 10 Marla) and hence he did not fulfill the conditions of R&R policy and his case has been rightly rejected.

Learned counsel for the State contends that the case of the petitioner is not covered as per sub clause (iii) of clause 11 of notification dated 09.11.2010 (Annexure P-2) which reads as under:-

“iii) Recognising that certain persons may indulge in large scale division of their holdings to acquire title to government jobs in this process, the entitlement of dependants would be based on the revenue records of four years prior to the date of issue of notification under Section 4 of the Land Acquisition Act or a corresponding provision in other statutes;”

In the present case, the land of the petitioner measuring 5 Kanals 13 Marlas was acquired in the year 2009 after mutation on 01.09.2005 and on that date he was owner of 5 Kanals 13 marlas of land and

therefore the case of the petitioner did not fall in the proviso in of the policy and his claim has been rightly rejected.

Learned counsel for the petitioner has referred to judgment passed by this Court in ***CWP-14193-2013 titled as Jagdish Rai @ Jagdish chander and another V/s. State of Haryana and others*** 2015(1)S.C.T 164 whereby the petitioner owned 26 kanals and 16 marlas of land, four years prior to issuance of notification. Out of that land, 8 kanals of land was transferred by him in the name of his mother by way of gift deed. State acquired 8 kanals of land gifted to mother and 16 kanals of land of the petitioner out of 18 kanals and 16 marlas. Since the land transferred to mother was not for commercial purpose and it was within family, the petitioner was held eligible for appointment as his total land was considered as 26 kanals and 16 marlas of land and not 18 kanals and 16 marlas of land, after giving 8 kanals of land to his mother.

The present case squarely covers by the ratio of aforesaid judgment. In the present case, after the death of father of the petitioner in 2005, the total land of 22 kanals 12 marlas of the father of the petitioner was transferred into four shares namely namely Neelam Rani (wife), Meenu Rani (daughter), Rajni Rani (daughter), Kavish (son) as per mutation sanctioned. Even if mutations were sanctioned in favour of four LRs, the land was not being used for commercial purpose and one family member is entitled for job as per notification dated 09.11.2010 (Annexure P-2).

In the present case, the mother and sisters of the petitioner have already given affidavits that they may not be considered for Government job as per notification dated 09.11.2010 (Annexure P-2) and the petitioner

alongwith representation has given affidavits of his mother and two sisters to this effect.

This petition is allowed keeping in view aforesaid judgment and the respondents are directed to give appointment to the petitioner in Group C or Group D categories post as per his qualification after getting fresh affidavits of his mother and two sisters. This exercise be completed within a period of three months from the date of receipt of certified copy of this order.

(RITU BAHRI)
JUDGE

27.01.2020
Divyanshi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No