

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

CWP No.14978 of 2021
Date of decision: 06.08.2021

Sukhdev Singh and others

...Petitioners

Vs.

State of Haryana and others

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr. Mohan Singh Puri, Advocate,
for the petitioners.

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

Ritu Bahri, J. (oral)

Petitioners are seeking direction to respondent No.2-District Revenue Officer-cum-Land Acquisition Collector, Ambala, to announce rehabilitation and resettlement award under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (No.30 of 2013) (hereinafter referred to as 'the Act of 2013') with respect to their land, which has been acquired under Award No.2/2016-2017 dated 21.10.2016 (Annexure P-1) announced by the District Revenue Officer-cum-Land Acquisition Collector, Ambala and to pay all the benefits viz annuity, one time resettlement allowance etc. arising thereof, to the petitioners.

Learned counsel for the petitioners contends that the Haryana Government, Industries Department, vide notification No.32/5/2013-41B-1 dated 28.10.2013 under Section 4 of Land Acquisition Act, 1894

8.47 acres falling in the revenue estate of village Dhakaula, Tehsil Saha, District Ambala, for setting up of Growth Centre, Phase-II, Saha. He argues that award, in this regard, was passed on 21.10.2016 (Annexure P-1). Subsequently, the petitioners got served a legal notice dated 06.04.2021 (Annexure P-3) upon the respondents seeking announcement of rehabilitation and resettlement award and to get the benefit of one time resettlement allowances etc. However, till date, no such benefit has been extended to the petitioners. He further argues that the petitioners have a right under Section 31 (1) in terms of entitlements provided under 2nd schedule of the Act of 2013 with respect to the monetary part of rehabilitation and resettlement entitlements listed in the 2nd schedule commencing from the date of award made under Section 30, as prescribed under Section 38 (1) of the Act of 2013. Benefits under 2nd schedule, Chapter-V, Section 31 have not been paid to the petitioners and in this backdrop, the present writ petition has been filed.

At this stage, Mr. Ankur Mittal, learned Addl. Advocate General, Haryana, has referred to Section 24 (1) (a) of the Act of 2013 to contend that where no award under Section 11 of the Land Acquisition Act, 1894 has been passed at the time of announcement of this Act, then all the provisions of the Act of 2013 relating to the determination of the compensation will be followed. He has further argued that notification under Section 4 was issued on 02.11.2013 and after hearing objections under Section 5-A, notification under Section 6 was issued on 30.10.2014. When the Act of 2013 came into force, no award had been passed under Section 11 of the Act of 1894. In this backdrop, when the new Act came into force, proceedings initiated prior to this Act were to be followed. The

only proceeding, which could take place with respect to such acquisition was to assess the compensation as per the Act of 2013 and this process has been duly followed while passing the award dated 21.10.2016 (Annexure P-1).

Learned counsel for the respondents has further referred to the provision of Section 105 (3) of the Act of 2013, which provides that the Central Government, within one year from the date of commencement of this Act, shall direct that any of the provisions of this Act relating to the determination of compensation, as per the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule. Petitioners' land was acquired as per the 1894 Act and in the Fourth Schedule for the purpose of issuing notification for rehabilitation, this Act has not been referred to. The benefit of rehabilitation cannot be extended, even by the Central Government, with respect to the land acquisition proceedings initiated under the 1894 Act. Hence, the petitioners cannot take any benefit of rehabilitation or resettlement as per the Second Schedule. There is a complete bar for claiming rehabilitation with respect to the acquisition proceedings and the notifications have to be issued with respect to the list of enactments specified in the Fourth Schedule.

Heard, counsel for the parties.

Learned counsel for the petitioners has not been able to cite any case law (after the Act of 2013 came into force), where the benefit of rehabilitation, in such like situation, has been extended. At the outset, we can refer to the provisions of Section 24 (1) (a) (b) of the Act of 2013,

which are reproduced as under:-

“24. Land acquisition process under Act No.1 of 1894 shall be deemed to have lapsed in certain cases. -- (1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894),--

(a) where no award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said Section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

xxx xxx xxx”

The provisions of Section 24 (1) (a) are very clear that where no award under Section 11 of 1894 Act has been passed, then after coming into force the Act of 2013, all provisions relating to the determination of compensation shall apply. It is not the case of petitioners that the compensation has been assessed under the old Act i.e. 1894 Act. The claim of the petitioners for getting the benefit of rehabilitation under Section 31 has to be examined keeping in view the provisions of Section 105 (3) of the Act of 2013, which read as under:-

“105 (3). The Central Government shall, by notification, within one year from the date of commencement of this Act, direct that any of the provisions of this Act relating to the determination of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule or shall apply with such exceptions or modifications that do not reduce the compensation or dilute the provisions of this Act relating to compensation or rehabilitation and resettlement as may be specified in the notification, as the case may be.”

As per Section 105 (3), within one year of the coming into force of this Act, the Central Government has to issue notification with respect to rehabilitation of the affected families, but the benefit is extended

to the cases of land acquisition under the enactments specified in the Fourth Schedule, which is reproduced as under:-

“THE FOURTH SCHEDULE

List of Enactments regulating I and Acquisition and Rehabilitation and Resettlement

1. The Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958).
2. The Atomic Energy Act, 1962 (33 of 1962).
3. The Damodar Valley Corporation Act, 1948 (14 of 1948).
4. The Indian Tramways Act, 1886 (11 of 1886).
5. The Land Acquisition (Mines) Act, 1885 (18 of 1885).
6. The Metro Railways (Construction of Works) Act, 1978 (33 of 1978).
7. The National Highways Act, 1956 (48 of 1956).
8. The Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962).
9. The Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952).
10. The Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (60 of 1948).
11. The Coal Bearing Areas Acquisition and Development Act, 1957 (20 of 1957).
12. The Electricity Act, 2003 (36 of 2003).
13. The Railways Act, 1989 (24 of 1989).”

A reading of the Fourth Schedule shows that the acquisition proceedings initiated under the 1894 Act do not find mention therein. Hence, no case is made out to give direction to the respondents to consider the case of petitioners for rehabilitation/resettlement under the Act of 2013.

No merits.

Dismissed.

(RITU BAHRI)
JUDGE

(ARCHANA PURI)
JUDGE

06.08.2021
ajp

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