

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

Date of decision: 10.05.2022

Ramesh Kumar and others		CWP-1150-2015 ...Petitioners
	Vs.	
State of Haryana and others		...Respondents
Jagbir Singh and others		CWP-2789-2015 ...Petitioners
	Vs.	
State of Haryana and others		...Respondents
Ashok Kumar and others		CWP-3209-2015 ...Petitioners
	Vs.	
State of Haryana and others		...Respondents
Anita and another		CWP-924-2019 ...Petitioners
	Vs.	
State of Haryana and others		...Respondents
Sandeep Kumar		CWP-32143-2019 ...Petitioner
	Vs.	
State of Haryana and others		...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Aakash Vashisth, Advocate for
Mr. Sanjay Vashisth, Advocate,
Mr. Keshav Pratap Singh, Advocate,
For the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. Umesh Aggarwal, Advocate,
for respondent-Jhajjar Thermal Plant.

Mr. Amit Arora, Senior Panel Counsel,
for respondent-UOI.

Mr. Vikas P.Singh, Advocate,
for respondent-National Thermal Power Corporation Ltd.

Mr. Hitesh Pandit, Advocate,
For respondent-Haryana Power General Corporation Ltd.

ARUN MONGA, J. (ORAL)

Above titled bunch of 05 petitions is being disposed of vide common order since facts as well as issues involved therein are similar.

2. The instant writ proceedings herein are for issuance of a writ in the nature of Certiorari to quash the order dated 20.11.2014 (Annexure P-15) passed by Deputy Commissioner, Jhajjar whereby representation submitted by the petitioners were disposed of on the ground that benefit of Rehabilitation & Resettlement (R&R) Policy dated 09.11.2010 (Annexure P-8) cannot be extended to the petitioners because award dated 12.07.2007 (Annexure P-6) is prior to 07.09.2010

3. Succinct factual narrative first. For the sake of brevity, same is being taken from CWP-1150-2015.

4. Notification under Section 4 of the land Acquisition Act, 1894 was issued proposing to acquire 3,952Kanal-5Marla of the land for public purpose namely, for construction of Mahatma Gandhi Thermal Power Plant, Khanpur, District Jhajjar. Subsequently, vide notification under Section 6 of the Act, 1894 issued on 13.11.2007 land was reduced to 3,412 Kanal-4Marla. Late award dated 20.11.2008 was also rendered/disbursed. Another Notification dated 13.11.2007 under Section 4 followed by section 6 for the same purpose in the same village for land measuring 312K-5M=39 acres-0K-5M was issued, qua which award was announced on 05.12.2008.

5. Learned counsel for the petitioner(s) submits that on one hand the very source of survival i.e. land has been taken away, on the other, 6-7 years have passed without providing alternative source of livelihood/rehabilitation.

Owing to inaction of the State authorities, another earlier CWP-9541 of 2013 was filed and vide order dated 27.05.2014 (Annexure P-13) respondent No.4 was directed to decide the representation of the petitioners. Same was disposed of by respondent No.4 vide the impugned order dated 20.11.2014 (Annexure P-15). Hence, the second foray of writ proceedings.

6. Learned counsel for the petitioners submits that several oustees whose land was acquired vide award announced on 12.07.2007 (Annexure P-6), that is much before the cut-off date, i.e., 07.09.2010 in Policy (Annexure P8), have already been offered appointments, whereas identically placed claims of the petitioners have been illegally denied by respondent No.4, by passing the impugned order dated 20.11.2014 (Annexure P-15).

7. It is a case where State has got itself into a piquant situation of having publicly offered/promised a *quid pro quo* vide a policy dated 09.11.2010 (Annexure P-8) and thereafter backing out from its part of the performance. What has been argued by the learned State counsel is totally contra to what is envisaged in the policy *ibid*, as noted here in after.

8. Before advertng to the facts of the case, it would, therefore, be appropriate to reproduce the relevant Clause 11 of the policy *ibid* as below: -

“11. Benefits for the affected persons whose land is acquired for infrastructure projects other than those of HUDA, HSIIDC and the HSAMB:

- i) *While provision has been made for allotment of ‘oustee category plots’ in case of land acquired for development by HUDA, HSIIDC, and the HSAMB and for allotment of commercial sites/industrial plots in case of those landowners whose 75% land gets acquired (subject to a minimum of one acre) for these organizations, extension of these additional benefits in case of the landowners whose land is acquired for public purposes other than these organizations, has not been found feasible. To that extent, it is also fortuitous.*

- ii) *In order to balance this situation and partially compensate the landowners in this category, it has been decided that wherever 75% or more land of a landowner in a revenue estate, subject to a minimum of two acres, is acquired for other infrastructure projects, and thereby impacting his sustenance to a considerable extent, one dependent of the land-owing family would be provided a job in the Government or its Boards/Corporations/State PSUs in Group 'D' and Group 'C' categories, subject to the incumbent fulfilling the qualifications prescribed for such posts;*
- 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;"*

9. Concededly, the land of the petitioners herein was acquired by the State Government vide notification dated 09.04.2007 and at the relevant time, the policy aforesaid held the field. It cannot therefore, be argued that being subsequent in time, petitioners cannot seek benefit thereof.

10. Having heard the competing arguments of the learned counsels, I am of the view that subject to the fulfillment of the requirement of the policy *ibid*, the petitioners are entitled to the benefit as envisaged therein.

11. Learned State counsel as well as learned counsel appearing for Power Plant have strenuously tried to persuade me that *qua* the land in question acquired from the petitioners, the policy *supra* is not applicable on the following grounds:

(A) At the relevant time, land was acquired for two different Power Plants and land of the petitioners is *qua* Mahatma Gandhi Super Thermal Power Plant on, for which the policy is not applicable;

(B) Some of the petitioners are trying to take advantage of the policy by misreading the same, as if for every two acres one person is to be given

the job. Whereas, what is envisaged is regardless of the chunk of land acquired, what has to be seen is that only those who have minimum of two acres are to be given the job;

- (C) Some of the petitioners are overreaching the intent policy by nominating even their children and/or grand-children for seeking Government job, who were not even born or minors at the relevant time/as on the date of the land acquisition/notices were issued.

12. Adverting now to the aforesaid arguments. Last one first.

12.1. As regards the allegation that some petitioners are nominating those who are not entitled, it is made clear that the petitioners' case will be strictly dealt with subject to their fulfilling other requirements as envisaged in the policy. Only after verifying the revenue records, of the preceding 4 years prior to the date of issuance of the land acquisition notices, persons found entitled to apply for job shall be given benefit of the same.

Needless to say, that those mentioned in the revenue records, only they shall be entitled to seek benefit of the job in terms of the policy, provided, as already stated, they are held eligible otherwise.

12.2. Coming now to the alleged misuse of the policy by those who had multiple chunks of land measuring two acres each. It is made clear that regardless of the area of the land, only one job will be offered per acquisition as long as the land meets the criteria of minimum two acres. Illustratively, even if a petitioner is owner of 8 acres of land, it is made clear that he will not be entitled to seek four jobs by calculating it on the basis of one job per two acres. It is not the import of the policy to provide multiple jobs to one owner merely because he owns a larger chunk than 2 acres. In any case, in

course of hearing, learned counsel for the petitioners, under instructions, submit that none of the petitioners will seek more than one job, regardless of land size being more than two acres.

12.3. Argument of learned state counsel, that the policy is not applicable to the Thermal plant in question, flies in the face of Sub-Clause-(i) of Clause 11.A bare perusal thereof depicts no ambiguity. It clearly states that policy is applicable to all those oustees whose land has been acquired for development other than those of HUDA, HSIIDC and HSAMB. Reasons are not far to seek. Since those, whose land has been acquired for development either by HUDA or HSIIDC and/or HSAMB, have already taken benefit under the oustees scheme from HUDA or HSIIDC and/or HSAMB, as the case may be. Having already taken advantage in past of the fortuitous benefits, they cannot stand in the queue all over again, merely because they own additional land which too has been acquired by the Government for the purpose of development.

Accordingly, it is made clear that if any of the petitioners has taken advantage of accepting job in past, for acquisition of his land by HUDA, HSIIDC and HSAMB, he shall not be entitled to seek the incidental benefit for the second time, owing to the acquisition of his land for the Power Plant.

13. In the parting, at the cost of repetition, I would like to re-emphasize that repeated arguments canvassed by the learned counsel for the respondents, after hearing my above dictation in the open court, that at the relevant time, the policy discussed by me hereinabove, was not applicable, are being noted again only to be rejected. Specific averments given in the

petition and relevant record appended in support thereof would show that the land acquired for the other power plant, which was prior in time, oustees/landowners have been given the benefit of the policy (supra) *qua* the same. I see no reason as to why the petitioners, on parity, be also not accorded similar treatment. More so, when all of land in question was acquired for setting up the two adjoining power plants. It is not disputed that entire chunk of land for both the power plants is contiguous, but for a road dividing the two.

14. As an upshot of the above discussion, the respondents shall proceed afresh with the cases of the petitioners in accordance with the policy, *ibid*. They shall keep in mind the reasoning/observations contained in the preceding paras of this order/ judgment. Needful be done within a period of 3 months from today.

15. Disposed of accordingly.

16. Pending applications, if any, shall also stand disposed of.

17. Photocopy of this order be placed on the connected case files.

(ARUN MONGA)
JUDGE

10.05.2022

vandana

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