

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-18647-2021 (O&M) and
other connected cases.

Date of decision:19.07.2022

Narinder Kaur

....Petitioner

V/s.

Union of India and others

....Respondents

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

Present: Mr. Japneet Singh Wadhwa, Advocate with
Mr. Amit Chaudhary, Advocate
for the petitioner.

Mr. Karminder Singh, Senior Panel Counsel,
Advocate for respondents No. 1 to 4 and 6.

Mr. Ankur Mittal, Addl.A.G., Haryana with
Mr. Saurabh Mago, A.A.G., Haryana.

Ritu Bahri, J.

This order shall dispose of following seven writ petitions:-

1. *CWP-18647-2021* titled as *Narinder Kaur vs. Union of India and others*,
2. *CWP-18648-2021* titled as *Surjeet Kaur vs. Union of India and others*,
3. *CWP-18687-2021* titled as *Devinder Singh vs. Union of India and others*,
4. *CWP-18718-2021* titled as *Jaswinder Singh vs. Union of India and others*,
5. *CWP-20601-2021* titled as *Paramjeet Singh vs. Union of India and others*,

6. *CWP-20603-2021 titled as Daljeet Singh vs. Union of India and others,*

7. *CWP-20667-2021 titled as Gurvinder Singh vs. Union of India and others.*

However, for the sake of brevity, facts are being extracted from CWP-18647-2021.

The petitioner is seeking quashing of notification dated 24.06.2020 and 14.10.2020 (Annexures P-4 and P-5) issued under Section 20A and 20E(1) of the Railways Act, 1989 respectively by respondent No. 2 during lockdown, by forfeiting the statutory right of the petitioner to file objections under Section 20D(1) thereby acquiring the land measuring 39K-3M, to the extent of his share, situated at village Maujgarh, H.B. No. 212, Tehsil Barara, District Ambala. She is further seeking quashing of award No. 9 dated 06.07.2021 (Annexure P-6) passed by respondent No.5.

The petitioner is owner and in possession of the land measuring 39 K-3M to the extent of his share in the joint khewat, situated at village Maujgarh, H.B. No. 212, Tehsil Barara, District Ambala. She has placed on record jamabandi for the year 2018-19 (Annexure P-1). A copy of the khasra girdawari for the year 2019-20 is attached as Annexure P-2. Latest photographs showing the cultivation/possession with standing crop is attached as Annexure P-3.

Initially primary notification dated 24.06.2020 (Annexure P-4) under Section 20A of the Railways Act, 1989 was issued by respondent No. 2 to acquire a parcel of the land, in question, for public purpose namely execution, maintenance, management and operation of the Special Railway Project namely Eastern Dedicated Freight Corridor in the district of Ambala.

Another notification dated 14.10.2020 (Annexure P-5) was issued by respondent No. 2 under Section 20E(1) of the Railways Act, 1989. Thereafter, award No. 9 dated 06.07.2021 (Annexure P-6) was passed by respondent No. 5, determining the market value of the total acquired land measuring 13K-8M out of the total joint mushtarka khata. The site plan showing the acquired land in yellow colour passing through the joint mushtarka khata is attached as Annexure P-7.

The main grievance of the petitioner is that after imposition and extension of lockdown, the petitioner and other land owners never came to know about the publication of the notifications in question.

As per Section 20-D of the Railways Act, the land owners or the interested persons have been granted right to file objections within a period of thirty days from the date of publication of the notification under subsection (1) of Section 20-A and the competent authority has to pass orders after giving opportunity of hearing.

On notice of this petition, respondent No. 6-Deputy Chief Project Manager, Northern Railways, Ambala Cantt. has filed reply. As per para 8 of the said reply, notification No. S.O. 2037-E dated 24.06.2020 was published on 25.06.2020 under the provisions of Railways Act, 1989. The substance of the said notification was also published in two daily newspapers widely circulating in the locality, namely "The Tribune" Chandigarh edition (English) dated 07.07.2020 and "Amar Ujala" Chandigarh edition (Hindi) dated 07.07.2020 but no objections were received from the petitioner within the prescribed period i.e. 30 days from the date of publication of the notification. Since no objections were received, there was no occasion to give effective opportunity of hearing to

the petitioner by the concerned authority as per Section 20-D of the Railways Act and all the proceedings under the Railways Act have been followed. Thereafter, award No. 9 dated 06.07.2021 (Annexure P-6) was passed. The said reply was filed by respondent No. 6 on 20.01.2022 to which the petitioner had not filed any replication with respect to the fact that she had filed objections within the prescribed period.

Reference can be made to a judgment passed by the Supreme Court in ***Civil Appeal No. 6270 of 2019*** titled as ***Nareshbhai Bhagubhai and others vs. Union of India and others***. In the said appeal, the Supreme Court was examining a case of acquisition proceedings under the Railways Act, 1989. The competent authority rejected the objections of landowners/interested persons without application of mind. The Supreme Court held that under Section 20D of the Railways Act, 1989, the landowners/interested persons can file objections and they have to be granted personal hearing which cannot be reduced to empty formality, or a mere eye-wash by competent authority. The competent authority is duty bound to consider objections raised by the landowners/interested persons and pass a speaking order after applying mind. The relevant portion of para No. 11 is reproduced here as under:-

“The limited right given to a land-owner/interested person to file objections, and be granted a personal hearing under Section 20D cannot be reduced to an empty formality, or a mere eye-wash by the Competent Authority.

The Competent Authority was duty-bound to consider the objections raised by the Appellants, and pass a reasoned order, which should reflect application of mind to the objections

raised by the land-owners.”

In the present case, there has been a complete dereliction of duty by the Competent Authority in passing a reasoned order on the objections raised by the Appellants.”

In the said case, the Supreme Court did not set aside the acquisition proceedings. However, by observing that the respondents had breached the mandatory provisions of the Railways Act, the competent authority was directed to grant compensation to the appellants after computing the amount of compensation on the basis of the current market value of the land.

In the facts of the present case, as per the reply of respondent No. 6-Deputy Chief Project Manager, Northern Railways, Ambala Cantt., notification No. S.O. 2037-E dated 24.06.2020 was published on 25.06.2020 under the provisions of Railways Act, 1989 and its substance was also published in two daily newspapers widely circulating in the locality, namely “The Tribune” Chandigarh edition (English) dated 07.07.2020 and “Amar Ujala” Chandigarh edition (Hindi) dated 07.07.2020 **but no objections were received from the petitioner within the prescribed period i.e. 30 days from the date of publication of the notification. Since no objections were received, there was no occasion to give effective opportunity of hearing to the petitioner by the concerned authority as per Section 20-D of the Railways Act.** The said reply was filed by respondent No. 6 on 20.01.2022 to which the petitioner had not filed any replication with respect to the fact that she had filed objections within the prescribed period. The above said judgment would come to the petitioner's help only if she had filed objections and she had not

been given opportunity of personal hearing. Since, she did not file any objection, no case is made out to interfere in the acquisition proceedings initiated by Railways Department is made out.

Writ petition is hereby dismissed. Pending application(s), if any, stand(s) disposed of.

(RITU BAHRI)
JUDGE

19.07.2022
Divyanshi

(ARCHANA PURI)
JUDGE

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