

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

CWP-25232-2016 (O&M)

Date of decision: September 01, 2022

Jai Singh

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Shailendra Jain, Senior Advocate with
Mr. Jagtar Singh, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus directing the respondents to set aside order dated 11.05.2016 (Annexure P-6) and to consider the petitioner for providing employment under the Policy for Rehabilitation and Resettlement of Land owners-Land Acquisition oustees on account of acquisition of land, acquired for the construction of 3rd Water Works at Village Ninan, Tehsil and District Bhiwani especially when similarly situated persons whose land has been acquired vide same notification as the petitioner's have already been granted employment as per order dated 17.06.2016 (Annexure P-7) passed by the respondents.

2. Pledged case of the petitioner is that land measuring 67.33 acres of villages Ninan and Bhiwani Lohar had been acquired vide notification dated 05.02.2010 issued under Section 4 and notification dated 25.08.2010 issued under Section 6 of the Land Acquisition Act, 1894, for construction of

3rd Water Works at Village Ninan, Tehsil and District Bhiwani. Entire land of the petitioner, measuring 10 kanals and 16 marlas, was also acquired, which was part of larger Khewat. As per Government policy dated 26.10.2007 and as per settled law, the acquisition of structures (residential, commercial etc.) found in existence at the time of issuance of Section 4 notification *ibid* is not permitted. Petitioner along with 10 other aggrieved land owners challenged the said acquisition to the extent that it included their residential areas as well against public policy by way of CWP-27507-2013, which was disposed of vide order dated 16.12.2013 (Annexure P-3) with a direction that claim of the petitioners regarding release of their residential areas deserves to be considered by the competent authority. In compliance thereof, vide office order dated 17.04.2014, respondents released land falling in Khasra no.204/9 and 204/10, which included 3 kanals and 7 marlas of the land belonging to the petitioner. State Government issued notification dated 07.03.2011 (Annexure P-4), namely, Policy for Rehabilitation and Resettlement of Land owners-Land Acquisition Oustees. Sub Section (ii) of Section 11 of the said policy laid down the policy for providing employment to one family member of the land-owning family, which is largely affected by acquisition. Petitioner vide his application dated 07.04.2016 (Annexure P-5), applied under the said policy requesting the respondents to consider his grandson, namely Vikash Kumar for employment. Vide impugned order dated 11.05.2016 (Annexure P-6), respondents rejected the said application of the petitioner, stating that the dependent of land owner i.e., the petitioner is not eligible for getting job under said policy as the land acquired by the Department is less than 2 acres,

and the application was processed after 5 years from the date of acquisition of the land.

3. I have heard rival contentions of learned counsel for the parties and perused the record.

4. Clause 11(ii) of the Policy *ibid*, which is under challenge is reproduced herein below:-

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

- i) xx xx xx xx
- 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-owning 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;”*

5. I am unable to persuade myself with the submission of learned Senior counsel, which he has vehemently insisted on, that benevolence of the policy *ibid* arises out of the intent that wherever the family of a landowner is dependent for its livelihood on the land which has been acquired regardless of the minimum area, one member of the family ought to be provided a job. Instant is the case where concededly the area of the land of the petitioner which has been acquired for the project in question is 7 kanals as against the minimum of 2 acres, which translates into 16 kanals prescribed for providing job to a dependent member of the land owning family. Therefore, the policy as it stands does not cover the petitioner to seek a job. As regards the land, concededly petitioner has been given compensation and the adequacy thereof,

is not subject matter of the present proceedings for which there is remedy provided under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013.

6. Matters of policy are best left to the makers of the policy i.e., State and this Court shall not superimpose its own views in the policy domain. Trite to say, that would amount to transgressing into the unchartered territory which this Court ought not to. Needless to say, policy in question has been applied across board *qua* all the land owners and it is not the case where petitioner has been meted out with any hostile discrimination. In case, petitioner is given the benefit by overlooking the minimum eligibility requirement of two acres, same would amount to opening of Pandora box for those who are not before this Court and whose less than 2 acres of land was acquired and were not offered any employment.

7. No grounds for interference are made out.

8. Dismissed.

9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

September 01, 2022

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No