

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4422 of 2016

1. Rajesh Kumar Tiwary S/o Late Awadhesh Kumar Tiwary
 2. Kamal Nayan Tiwary S/o Late Awdhesh Kumar Tiwary
 3. Abhishek Tiwary S/o Late Awdhesh Kumar Tiwary
 4. Alok Kumar Tiwary S/o Late Awdhesh Kumar Tiwary
- All residents of village - Srimatpur, Tola Kamat, P.S. Pirpainty, District - Bhagalpur

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Old Secretariat Building, Patna – 800015.
2. The Director, Land Acquisition, Directorate Bihar, Patna
3. The Commissioner, Bhagalpur Division, Bhagalpur
4. The Collector, Bhagalpur
5. The District Land Acquisition officer, Bhagalpur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ranjeet Choubey, Advocate
For the Respondent/s : Mr. GA-1- S.K. Sharma

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3. 21-12-2023 Heard learned counsel for the petitioners and the State.

2. This writ petition has been filed to direct the respondents:

(i) to pay the compensation to petitioners for their acquired land in Mauza Srimatpur, Thana no. -78, Anchal Pirpainty, Distt.- Bhagalpur, as detailed in paragraph – 1 of the writ petition, for construction of Pirpainty Thermal Power Project



on the similar rate as has been paid to the other land holders vide award no.- 36 & 42 wherein the rate of compensation has been fixed at higher rate of more than Rs. 50,000/- per decimal.

(ii) to direct the respondent concerned to make payment of the equal rate for the award no:- 9, 15, 16, 17, 19, 20 & 21 for which the rate has been fixed at a lower rate of Rs. 41,610/- per decimal.

(iii) to direct the respondents to perform their duty in accordance with law by paying the compensation to the petitioners for their acquired land equivalent to the compensation paid to other Raiyats whose lands have been acquired for the same project by the same notifications and the payment of lower rate of compensation is perse discriminatory and violative of the Government Circular contained in letter no:- 2625 dated 07.11.2012 wherein it has been directed that the same rate for acquisition of land has to be fixed of all the lands acquired for one project.

(iv) to hold the respondents accountable in public law for abuse and misuse of their power and determining their individual liability for such abuse of power.

3. At the outset, learned counsel for the State appears and raises preliminary objection to the effect that



petitioners have got alternative remedy by way of filing an application before the Collector in terms of **Section 64 (1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013**, which is as follows:-

64. Reference to Authority.-(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested:

Provided that the Collector shall, within a period of thirty days from the date of receipt of application, make a reference to the appropriate Authority:

Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days.

4. Learned counsel for the petitioners does not dispute the contention made on behalf of the State.

5. In the facts and circumstances of the case, this writ petition is disposed of with a direction to the petitioners



to file a representation before the Collector, Bhagalpur (Respondent No. 4), along with all the relevant documents in support of the claim, within a period of six weeks from the date of receipt/production of copy of this order.

6. In the event such representation is filed before respondent No. 4 (the Collector, Bhagalpur), the same shall be disposed of in accordance with law after hearing the parties, preferably within a further period of six months from the date of receipt of the representation.

7. It goes without saying that if any question of limitation arises before the competent authority, the same shall be considered, taking into consideration the fact that the petitioners were pursuing the issue before this Court.

8. With aforesaid direction, the writ petition is disposed of.

(Prabhat Kumar Singh, J)

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