

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

CWP-10723-2021

Date of decision : 13.02.2023

Harjinder Singh

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. J.P.S. Sidhu, Advocate
for the petitioner.

Mr. Inderpreet Singh Kang, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

Present petition has been filed claiming writ in the nature of certiorari impugning the order dated 24.08.2020 (Annexure P-3), whereby the claim of the petitioner to job as a measure of rehabilitation owing to compulsory acquisition of land has been declined.

2. The reasoning afforded in the impugned order reads as under:-

“The Committee after due deliberations and after hearing the applicant in person gave the detailed report. The conclusion drawn by the committee is reproduced as under:-

“To consider the claim of petitioner/applicant Harjinder Singh S/o Manjit Singh resident of village Gobindpura, Tehsil Budhlada, Distt. Mansa, under exceptional hardship, the meeting of committee members has been held today i.e. 31.07.2020. As per the earlier report of Committee dated 24.07.2014, it was decided that the cases of land owners in which the left out land is more than 2.5 acres would be able to be rejected and not to be considered under exceptional hardship. In consonance with the report and after hearing the

petitioner/land owner individually, each case was scrutinized and the decision taken by the Committee has been duly recorded as under:-

Sr. No.	Name of Petitioner/ Applicant	Name of land owner	Acquired land in Marlas	Relation of the petitioner with land owner	Date of Birth of Applicant	Educational Qualification	Whether the family has any other source of reasonable livelihood	Whether the family has any other land holding in any part of the State
1	2	3	4	5	6	7	8	9
1.	Harjinder Singh S/o Manjit Singh	Manjeet Singh	255.75	Son	04.01.1996	Senior Secondary	Yes	Yes

Whether he is in receipt any kind of pension given by the Central/State Govt. or any other agency other than the pension given by the social security department.	Whether his/her entire holding has been acquired?	Whether the land owner has become owner of land with ulterior motive of deriving benefits of land acquisition
10	11	12
No	No	No

Apart from the above, as per the report of halka patwari dated 29.07.2020, the petitioner Harjinder Singh S/o Manjit Singh owns 23 Kanal 15 Marlas land in village Gobindpura and 3 Kanal 7 Marlas land in village Sangreri totaling 27 Kanal 2 Marlas and his father Manjit Singh S/o Maghar Singh owns 36 Kanal land in village Gobindpura and 3 Kanal 7 Marles in village Sanghreri totaling 39 Kanal 7 Marlas. As such the petitioner Harjinder Singh along with his father Manjit Singh is the owner of 66 Kanal 9 Marlas in villages Gobindpura and Sangreri.

The Committee has perused the documents presented by the petitioner Harjinder Singh and has given them the opportunity to present their claim in front of the Committee on 31.07.2020. As the land acquired constitutes only a small portion of his land holdings, his livelihood has been partially affected. The petitioner Harjinder Singh has enough resources at their disposal to earn his livelihood.

After carefully examining the facts, the Committee is of the considered opinion that petitioner

Harjinder Singh does not fall into the criteria of exceptional hardship under the letter and spirit of the policy set forth by the Government.”

Now in compliance of the order dated 9/1/2020 passed in CWP No. 8997 of 2016 by the Hon'ble High Court and in view of the report of the committee. the claim of the Sh. Harjinder Singh S/o Manjeet Singh has been carefully examined and duly considered. As the land acquired of the father of the petitioner is 255.75 Marlas which constitutes only a small portion of his land holdings. The petitioner Harjinder Singh alongwith his father has enough resources at his disposal to earn his livelihood as the petitioner Harjinder Singh S/o Manjit Singh still owns 23 Kanal 15 Marlas land in village Gobindpura and 3 Kanal 7 Marlas land in village Sangreri (totalling 27 Kanal 2 Marlas) and his father Manjit Singh S/o Machar Singh still owns 36 Kanal land in village Gobindpura and 3 Kanal 7 Marias in village Sanghrer (totalling 39 Kanal 7 Marias) after acquisition As such the petitioner Harjinder Singh along with his father Manjit Singh still own 66 Kanal Marias in village Gobindpura and village Sangreri.

Therefore considering the claim of the applicant in light of the Government guidelines, recommendations of the Committee, documents placed on record, I am of the considered opinion that the petitioner Harjinder Singh does not fulfill the criteria to get the Govt Job for "exceptional hardship" category as provided by Punjab Government policy/guidelines circulated vide memo no 10/88/2010-PE 1/547 dated 03 03 2014. Hence, the claim of the petitioner Sh Harjinder Singh S/o Sh Manjeet Singh R/o village Gobindpura Tehsil Budhlada District Mansa is hereby rejected.”

3. Petitioner and his family are owners of large chunk of land, out of which 1.6 acres of land has been acquired compulsorily by issuance of

notification dated 15.10.2010 under Section 4 of the Land Acquisition Act, 1894 for a public purpose namely for setting up of Peona Power Plant, Gobindpura.

4. At a meeting held on 28.02.2014 under the Chairmanship of the Chief Minister of Punjab, it was decided that as a measure of rehabilitation job be provided to one member of family of the land owner whose land stands acquired for Peona Power Plant, Gobindpura. Objectives and reasons of the said policy read as under:-

“It was informed that the real objective of the Government decision and subsequent guidelines for providing jobs to the family members of those land owners whose livelihood had been affected was being defeated on ground because of a number of factors. It was brought out that lot of transactions approx more than four hundred have happened in a period of less than 6 months prior to the first notification under section 4 of the Land Acquisition Act 1894 with the sole purpose of becoming a land owner of the proposed land acquisition to derive benefits. Most of these transactions are of fractional land holdings and in some cases of few sq. yards. Therefore, it was important that some checks and filters are put in the shape of giving clarifications to the existing guidelines so that only the real land owners whose livelihood has been affected as a result of the acquisition are benefited.

It was also felt that there needs to be a broader interpretation of the term family as well as the condition of attaining educational qualification of at least 10+2 even when the Government intends to provide only Group C & D jobs. Also, in view of the fact that some of the eligible land owners may have attained the maximum age to join Government jobs. A wider interpretation for this also needs to be made to make the

position clear. It was with these objectives and to ensure that only the real land owners whose source of livelihood has been affected get the jobs and that unscrupulous elements do not circumvent the guidelines and take advantage.”

5. Further in order to weed out the claim of undeserving persons, the policy provided that immediately nearing the acquisition, there has been large transactions of land and the persons who acquired land near the date of the notification under Section 4 are also claiming employment on the basis of their fractional holdings. The applicants whose quantum of acquired land is very less and those whose only small fraction of land has been acquired need to be denied the jobs. Operative part to that effect reads as under:-

“Land tenure:

Deputy Commissioner, Mansa informed that more than 1200 applications have been received for giving jobs whose land has been acquired for Poena Power Project, Gobindpura. Out of which more than 500 applicants are those whose one marla or even a fraction of one marla has been acquired. A large number of such transactions have occurred in few months just before the date of notification under section 4 of the Land Acquisition Act for acquiring land for Poena Power Project, Gobindpura. It appears that they have purchased fraction of land just to become land owner in the land acquisition to derive benefits because these land owners are neither original owners of the village nor have their livelihoods been affected families due to acquisition of land for this project. He further informed that in some cases the land transactions are of few sq. yards. Approx more than 400 applicants are those whose entire land has not been acquired and their partial land which is even less than two acres has been acquired. It was observed that applicants of following

two categories can not be said to be families whose livelihoods have been affected because of the land acquisition for this project :-

- a) The applicants whose quantum of acquired land is very less.
- b) The applicants whose partial land has been acquired.

After detailed discussion on the cases falling under these two categories it was decided that the benefit of providing jobs should reach to the actual affected persons whose livelihood has been affected due to this acquisition. Therefore, it was decided that only those land owners/families would be eligible for jobs whose acquired land is two acres or more.”

6. After going through the impugned order (Annexure P-3), this Court is of the considered opinion that the authorities while implementing the policy have taken a U-turn and have instead of implementing the policy decision, acted in a manner which has resulted in defeating the very objective of the policy. As per the pleadings in the writ petition, persons owning fractions of land as little as 1 marla have been provided jobs whereas the petitioner whose ancestral land measuring about 1.6 acres has been acquired is being denied the same. The fact is not disputed.

7. Counsel representing the State does not dispute the fact that the case of the petitioner would not fall within any of the exclusionary clauses as mentioned in the policy. Deputy Commissioner, Mansa ought not have carved out category of ‘exceptional hardship’ on his own to deny the claim of the petitioner. Resultantly, order Annexure P-3 cannot be sustained and is ordered to be set aside.

8. Consequently, the present writ petition is allowed. Respondents are directed to consider the claim of the petitioner for job strictly in terms of

the policy Annexure P-2 within a period of 08 weeks from the date of receipt of certified copy of the order. The claim of the petitioner shall also be tested on parity with the instances as given in the present writ petition. In case the petitioner is found to be entitled, he be granted employment in terms of policy within a period of 04 weeks thereafter. However, in case the respondents find that the claim of the petitioner merits rejection, a speaking order be passed after giving opportunity of personal hearing to the petitioner within the time period as stipulated hereinabove.

9. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

13.02.2023

Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	Yes