

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

301		CWP-9820-2023 (O&M) Date of Decision: 11.10.2023
1. Suresh Chander	Versus	...Petitioner
State of Haryana and others		...Respondents
		CWP-9821-2023(O&M)
2. Om Parkash and others	Versus	..Petitioners
State of Haryana and others		...Respondents
		CWP-9829-2023(O&M)
3. Savitri Devi	Versus	...Petitioner
State of Haryana and others		...Respondents
		CWP-9830-2023 (O&M)
4. Khajani through LRs and others	Versus	...Petitioners
State of Haryana and others		...Respondents
		CWP-9839-2023(O&M)
5. Kuldeep Singh	Versus	... Petitioner
State of Haryana and others		...Respondents
		CWP-9840-2023(O&M)
6. Dheeraj Malik and another	Versus	...Petitioners
State of Haryana and others		...Respondents

CWP-9844-2023 (O&M)

7. Jitender and others ...Petitioners

Versus

State of Haryana and others ...Respondents

CWP-9846-2023 (O&M)

8. Jagbir Singh since deceased through his LRs ...Petitioner(s)

Versus

State of Haryana and others ...Respondents

CWP-9867-2023(O&M)

9. Kanwal Singh since deceased through his LRs and another
...Petitioners

Versus

State of Haryana and others ...Respondents

CWP-9878-2023 (O&M)

10.Dalbir Singh and others ...Petitioners

Versus

State of Haryana and others ...Respondents

CWP-9884-2023 (O&M)

11.Ram Niwas Through LRs and another
...Petitioners

Versus

State of Haryana and others ...Respondents

CWP-9912-2023 (O&M)

12.Chandan Singh through LRs and others ...Petitioners

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sarvesh Malik, Advocate for the petitioner(s).

Mr. Pritam Singh, Sr. Addl. AG Haryana with
Mr. Abhinav Jain, DAG Haryana.

Mr. R.S. Madan, Advocate for respondent-NHAI.

HARKESH MANUJA, J. (oral)

1. This order of mine shall dispose of above mentioned 12 writ petitions, which invite facts and controversy. For reference, facts are being taken from CWP-9820-2023 titled as '**Suresh Chander Vs. State of Haryana and others**'.

2. In CWP-9820-2023, prayer has been made for directing the respondent-authorities to release the amount of annuity due towards the petitioner on account of acquisition of his land in terms of Policy Notification dated 09.11.2010 against acquisition of his land vide Notifications dated 18.06.2010 and 28.06.2010 issued under Sections 4 and 6 respectively, of the Land Acquisition Act (No.1 of 1984) followed by an Award dated 21.10.2010 (Annexure P-1), situated within the revenue estate of village Kharwar, Tehsil Sampla, District Rohtak for widening and 4/6 lanes of National Highway-10.

3. Learned counsel for the petitioner submits that in terms of Clause 4(iv) of Policy Notification dated 09.11.2010, it was made applicable to all cases of land acquisition by the State Government or

Government of India, including the National Highways Authority of India and in terms of Clause 4(viii), the petitioner was to be paid benefit of annuity on year to year basis, starting from the month of January of the following year from the date of award. Clause 4(iv) and (viii) of the aforementioned Policy are reproduced as under:-

“4. Annuity Scheme - revised rates and features:

iv) The scheme of Annuity payment will be applicable to all cases of land acquisition by the Government irrespective of the same being acquired for the State Government and its agencies or the Government of India/ its agencies, including the NHAI, the Railways, and the Defence purposes;

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viii) The Annuity in respect of land acquired during the preceding calendar year would become due for payment during the month of January of the following year. The landowner would be required to submit his Annuity claim in the prescribed form, (Application Form-2) along with the supporting documents, within a period of six months of the announcement of the Award. The acquiring departments shall be responsible for processing and compilation of the database of all such valid claimants within a period of further six months. The Annuity amount would be paid through Bank transfers.”.

3.1 Learned counsel further submits that despite having approached respondents, the benefit has not been released, rather the two set of respondents i.e. the State Government and the National

Highways Authority are putting of the matter on each other so as to avoid the liability.

4. On the other hand, learned counsel appearing for respondent No.5-NHAI relies upon the decision dated 06.04.2018 passed in **CR-14508-2016** titled as ‘**Virender Singh and others Vs. State of Haryana and others**’ to contend that the Policy was made effective from 07.09.2010, whereas the proceedings of acquisition commenced vide Notification dated 18.06.2010 i.e. prior to the date when the Policy was made applicable and therefore, the National Highways Authority was under no obligation to pay the annuity benefit to the landowner. The relevant portion of the judgment relied upon by the learned counsel for respondent No.5 is reproduced hereunder:-

“XXXX

The policy as such is for the benefit of the land owners and issued by the State and the State is, thus, not justified to wriggle out of its commitment which it has duly notified. The Railways also cannot be burdened with the said policy since the proceedings for acquisition had already started prior to the policy coming in force, as has been noticed by the communications dated 31.01.2007 (Annexure R-3/1). The cost of the Railway Line was on 50-50 cost sharing basis for the land acquired and the Railways had never kept into account the fact that it is liable to pay annuity which is a recurring expenditure. Therefore, it cannot be foisted as such with the liability under the policy and, therefore, the petitioners are justified in asking for the benefit of the same and they are entitled for direction in the nature of writ of

mandamus since the State Government itself had given them a legal right by notifying the above said policy. xxxx”.

4.1 Learned counsel for respondent No.5 further submits that as per Clause 19 of the Policy/Notification a prior undertaking was required to be obtained from the intending agency i.e. the National Highways Authority of India, in the present case, before initiating any land acquisition proceedings for the purposes of holding them responsible for payment of annuity to the land owners. He also points out that for seeking relief in terms of Policy, the first representation was submitted by the petitioner in the year 2022 and respondent No.5 was never informed by the State representatives about the applicability of the above said Notification.

5. On the other hand, learned State counsel on behalf of respondent Nos.1 to 4 submits that a meeting dated 16.01.2010 was held between the representatives of the State and respondent No.5, well before the passing of the award dated 21.10.2010 wherein they were made aware of the Annuity Scheme in anticipation. He while referring to the decision dated 06.04.2018 passed in **Virender Singh's** case (supra) submits that the same does not apply to the facts and circumstances of the present case, as in the said case acquisition proceedings commenced somewhere in year 2007 whereas the Policy

came into existence on 09.11.2010 w.e.f 07.09.2010, but in the present case the Policy was applicable as on the date of the award.

6. I have heard learned counsel for the parties and gone through the paper book.

7. Apparently, vide Notification dated 09.11.2010 a Scheme-Policy has been formulated by the State Government with an object of providing social security benefit-cum-sustenance assistance in the shape of annual annuity to the landowners against acquisition of their land in terms of Clause 4(viii) thereof. Once a Policy, beneficial to the interest of the landowners has been formulated by the Government of Haryana, it casted an obligation upon the State through the acquiring department to release/disburse the said benefit in terms thereof in favour of the landowners on their own, rather than compelling them to knock the doors of the Court and accordingly the petitioner(s) are held entitled for release of annuity in their favour in terms of Clause 4(viii) of the Notification dated 09.11.2010 along with arrears including the interest thereupon.

8. As regards the question of liability of payment, *inter se* the beneficiary and the acquiring department, learned counsel for respondent No.5 places reliance upon the decision passed in **Virender Singh's** case (supra). In the given facts, the same cannot be made applicable as in the said case, on the basis of reasoning recorded to the effect that the Policy became applicable on 07.09.2010 whereas by that

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time, the acquisition proceedings already stood concluded and in case the intending agency (Railways in the said case) was called upon to discharge the liability against the benefit of annuity, it was definitely going to increase the cost of project, the intending agency-beneficiary was absolved of its liability towards annuity. However, in the present case the acquisition proceedings were initiated on 18.06.2010 and the Annuity-Policy became effective on 07.09.2010 whereas the award was passed on 21.10.2010 and as such the land Acquisition Collector, besides the concerned authority i.e. the beneficiary etc. would be deemed to have taken note of the same thereby entitling the landowners with all the benefits of annuity payable by the intending agency-beneficiary. Accordingly, the plea raised on behalf of respondent No.5 as regards they not being liable for making payment against the annuity benefits is hereby rejected.

9. In view of the discussion made hereinabove, I find substance in the submission made on behalf of the petitioners-landowners. Accordingly, the petitioners-landowners are held entitled for disbursement of their arrears of annuity along with interest @ 9% per annum from the date of award till the date of payment and the aforesaid exercise shall be completed within a period of two months from the date of receipt of certified copy of this order. Further, it is ordered that in the peculiar facts and circumstances of this case and in order to avoid any more delay in the effective redressal of the grievance

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of the petitioners-landowners, at the first instance, respondent Nos.1 to 4 are directed to release the benefits due towards the petitioners within the aforementioned period, with right to recover the same from respondent No.5 in due course.

10. Pending application(s), if any, shall stand(s) disposed off.

11.10.2023

Mangal Singh

(HARKESH MANUJA)
JUDGE

Whether Speaking / Reasoned :	Yes	No
Whether Reportable :	Yes	No