

In the High Court of Punjab and Haryana at Chandigarh

(209)

**CWP No. 28453 of 2013 (O&M)
Date of Decision: 09.11.2023**

Khazan Singh and another

.....Petitioners

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Gaurav Chopra, Senior Advocate with
Mr. P.S.Chauhan, Advocate
for the petitioners.

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

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep K. Manchanda, Advocate and
Mr. Shivam Garg, Advocate
for HSVP.

SURESHWAR THAKUR, J. (ORAL)

CM-18293-CWP-2023

The application is allowed as prayed for. Annexures P-18 and P-19 are taken on record.

CWP-28453-2022

1. The present petitioners had earlier filed CWP No. 14513 of 1998. The challenge, as made in the said writ petition, appertained to the validity of the issuance of acquisition notifications, as became respectively issued under Section 4 and Section 6 of the Land Acquisition Act, 1894 (for short 'the Act of 1894'). The plea raised in the said writ petition for thereby thus quashings of the notifications (supra) being made, became rested on the factum, that a Senior Secondary School affiliated with CBSE since the year

1995, is located on the acquired land.

2. However, this Court through an order made thereons, on 29.8.2013, in paragraphs 2 and 3 thereof, paras whereof become extracted hereinafter, thus in terms of the instructions imparted to this Court by, the then learned Sr. DAG, Haryana, and, which instructions were anchored upon clause(c) and 2 of the policy dated 24.1.2011, had ordered the subject structure along with sufficient open space becoming released from acquisition.

“2. During the course of hearing, Mr. SS Pattar, Sr. DAG Haryana, on the basis of written instructions dated 29.8.2013 received from the Chief Administrator, HUDA, states since the school building was in existence at the time of Section 4 notification, the claim of the petitioners is covered under clause 1(c) and 2 of the policy dated 24.1.2011 and following the consistent past practice, the subject-structure along with sufficient open space shall be released from acquisition.

3. Suffice it to mention that the respondents, while demarcating the proportionate open space, shall keep in view the requirements of a Senior Secondary School like the playground etc., though they shall be at liberty to impose terms and conditions in the release order to ensure that no other commercial activity is undertaken by the petitioners except to utilize the said land for the benefit of the school children.”

3. Moreover, in paragraph 3 (supra), it was also directed, that the respondents concerned, while demarcating the proportionate open space, shall keep in view the requirements of a Senior Secondary School like playground etc. but had made the said direction subject to a rider, that no commercial activity is undertaken by the petitioners except to utilize the said land for the benefit of the school children.

year 2013, the respondent concerned, proceeded to make Annexure P-10. Now in the instant writ petition, the challenge is made to Annexure P-10. The learned counsel for the petitioners would succeed in laying a valid challenge to the making of Annexure P-10 but only if the said annexure was not drawn in terms of the policy concerned, as becomes referred in paragraph (2) of the verdict (*supra*), besides in case it was made in violation of paragraph (3) of the verdict (*supra*), as became made earlier by this Court.

5. Therefore, for making an adjudication vis-a-vis the fulcrum of the entire attack to the making of the impugned annexure, thus also requires an inference whether Annexure P-10, became well rested, upon the said order, thus premised on the policy referred in the verdict earlier drawn by this Court, thereupon, does also require that rather this Court, refers to the written statement instituted to the writ petition by the respondents concerned.

6. A reading of the written statement, furnished on affidavit, by the respondent concerned, reveals, that the impugned annexure has been drawn strictly in terms of the order earlier made by this Court. Conspicuously since the relevant policy, on which reliance was placed earlier by this Court, did manifestly require its being made applicable, to the petitioners, only when the said constructions were made prior to the issuance of a notification under Section 4 of the Act of 1894. Therefore, when in paragraph 2 of the reply on affidavit, furnished to the instant writ petition, it is unfolded, that some constructions on the acquired land, thus becoming raised subsequent to the issuance of a notification under Section 4 of the Act of 1894. Therefore, it appears, that the endeavour made by the learned senior counsel for the petitioners to protect such raised constructions,

through his drawing the benefit of the said policy, rather is a completely misconstituted endeavour.

7. It is also relevant to reproduce Para 5 of the written statement (supra).

“5. That earlier the petitioners had filed CWP No. 14513 of 1998 titled as Khazan Singh etc. Vs. State of Haryana which was disposed off by the Hon'ble court vide order dated 29.8.2013. The operative para of the said writ petition is reproduced as under:-

“The writ petition is accordingly disposed of as infructuos, however, with clarificatory direction that the formal order of release of the constructed portion alongwith proportionate open space be passed within a period of one month from the date of receipt of a certified copy of this order.”

In compliance with the order of the Hon'ble Court dated 29.8.2013, the Government of Haryana has released the land of the petitioner measuring 9680 sq. yards (2 acres) falling in khasra no. 86//13 & 86//18 in village Jharsantly, Tehsil Ballbgarh on usual terms and conditions of release of land. It is worth mentioning here that the school building is in the approximately area of 2000 sq. yards and the school building alongwith proportionate open space total measuring 9680 sq. yards has been released by the Government. The petitioner is also intimated by the Principal Secretary to Government was Haryana, Urban Estates Deptt. Haryana, Chandigarh vide memo no. A-7-2013/10/52/2013-2TCP dated 19.11.2013. Hence, the present writ petition is not maintainable and is liable to be dismissed being devoid of any merit.”

8. Since readings thereof, unveils trite underlinings, that thereby the relevant norms became adhered to, thereby too, the instant petition is completely misconstituted. Therefore, after making a deep deliberation, and,

circumspect study of the entire matter, and, after hearing all the counsels concerned, this Court is of the firm view, that the impugned order is drawn in tandem, not only with the policy referred in the earlier order, but also is in alignment with all the relevant norms appertaining to the ensurings, that sufficient open space, besides for ensurings qua the purveyings, of sporting facilities to the students undertaking education in the petition school.

9. Consequently, this Court finds no merits in the instant petition, and, is constrained to dismiss it. Accordingly, the instant petition is hereby dismissed.

10. No order as to costs.

11. The pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

November 09, 2023
Gurpreet

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