

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10397 of 2018

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Rafik Khan Son of Late Shekh Habib Khan @ Late Habib Khan, Resident of
Village- Chehariya, P.O. and P.S. Durgawati, District- Kaimur (Bhabua).

... .. Petitioner/s

Versus

1. The Union of India, through the Secretary, Department of Railway (Ministry of Railway), Rail Bhawan, New Delhi.
2. The Ministry of Railways, through the Chief Project Manager, Dedicated Freight Corridor Corporation of India Ltd., 5th Floor, Pragati Maidan Metro Station Building Complex, New Delhi - 110001.
3. The Assistant Project Manager, Dedicated Freight Corridor, Rail Project Mugalsarai, Sone Nagar Block, 2nd Floor, Swarn Complex Susuwahi, P.S. - Lanka, District- Varanasi (U.P.)
4. The State of Bihar, through Principal Secretary, Department of Revenue and Land Reform, Bihar, Patna.
5. The Commissioner - Cum- Arbitrator, Patna Division, Patna.
6. The District Magistrate - Cum- Collector, Kaimur (Bhabua).
7. The Competent Authority - Cum- district Land - Acquisition Officer, district- Kaimur (Bhabua).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Kumar Sunil, Adv.
For the State	:	Mr.Raj Kishore Roy, Adv.
For Union of India	:	Mr.Ramadhar Shekhar, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
Date : 18-11-2024

Heard the parties.

2. In the instant petition, petitioner has prayed for
the following relief(s):-



(i) For a direction upon the Respondents to make payment of the correct value of the land of the Petitioner bearing Khata No. 398, Plot No. 2099 and 2098, Area-0.0445 Hectare and 0.0121 Hectare (Total-8 Decimals), at Mauza - Chehariya, Thana No. 56, Anchal & P.S. - Durgawati, District - Kaimur (Bhabua), as acquired in connection with Dedicated Freight Corridor project of Railway after making Re - assessment of the acquired land afresh by holding and declaring the land under Residential category instead of Agricultural as held and declare in the case of others despite they have taken the payment much earlier.

(ii) For Quashing the Order dated 12.9.2017, Passed in Arbitration Case No. 11/2017, Passed by the Commissioner, Patna Division, Patna, being Arbitrator in the present land acquisition proceeding, Whereby and where under the claim of the Petitioner for enhancement and payment of compensation under Residential category after making Reassessment was Rejected in haste and in absence of 6 member committee report from the District level as also by ignoring the earlier order by which similar claim of others were allowed in the same Khata No. 398.

(iii) Further the Petitioner seeks indulgence of this Hon'ble Court to grant any other relief's for which the Petitioner is found entitled in the facts and circumstances of this case.

3. Learned counsel for the petitioner submits that land in question is ancestral property of the petitioner. He



further submits that petitioner had filed a petition before the Commissioner for declaring land in question as a residential plot as the land adjacent to the petitioner's land has already been declared as residential plot by virtue of order dated 22.08.2015 passed by the Commissioner, Patna Division, Patna but in case of petitioner the Commissioner has abruptly rejected the claim of the petitioner stating that land in question is not residential plot without assigning any reason. He further submits that order sheet in Arbitration Case No. 11 of 2017 reflects the date as 12.09.2017 and said order-sheet has been signed by the Commissioner on different date. He further submits that earlier order passed by the Commissioner, Patna Division, Patna cum Arbitrator on the land adjacent to petitioner's land is based on material while deciding the nature of land as residential plot with regard to Khesra No. 2119, 2121, 2122, 2123 and 2124 but the said finding is lacking in order of same authority while deciding the land in question. Hence, order passed by the Commissioner is cryptic, full of ambiguities and is not a reasoned order. He further submits that even administrative order or quasi judicial order must fulfill the spirit of reasoned decision which is totally lacking in the order passed by the Commissioner.



4. Counter affidavit filed by the State is totally silent regarding the basis of order passed by the Commissioner, Patna Division, Patna.

5. From perusal of material available on record as well as submissions made by the petitioner's counsel, it is crystal clear that order passed by the Commissioner, Patna Division, Patna is without any material basis and no sound reasoning has been given by the concerned authority. Furthermore, any order passed by the quasi judicial authority or administrative authority must be supported by reasoned decision which is the requirement for restoration of faith and in eradicating any ambiguity while passing the order.

6. The Hon'ble Supreme Court in ***Oryx Fisheries Private Limited vs. Union of India and Others*** reported in ***(2010) 13 Supreme Court Cases 427*** at para-40 held as under:-

"40. In *Kranti Associates* this Court after considering various judgments formulated certain principles in SCC para 47 of the judgment which are set out below: (SCC pp. 510-12)

"(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority



must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to



demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and Succinct. A pretence of reasons or 'rubber-stamp reasons is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harv. L. Rev. 731-37.)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain, EHRR at p. 562, para 29 and Anya v. University of Oxford, wherein the Court



referred to Article 6 of the European Convention of Human Rights which requires, 'adequate and intelligent reasons must be given for judicial decisions'.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of 'due process'."

7. In the light of discussions made above, it is evident that order passed by the Commissioner, Patna Division, Patna being Arbitrator is without any reasoning and is liable to be set aside. Accordingly, order dated 12.09.2017 passed by the Commissioner, Patna Division, Patna being Arbitrator in Arbitration Case No. 11 of 2017 is hereby set aside. The matter is remitted back to the Commissioner to pass reasoned order in the light of submission made by the petitioner that petitioner's land has been acquired by District Land Acquisition Officer, Kaimur (Bhabua) and the land adjacent to petitioner's land has already been declared residential plot. If same representation is presented within six weeks from the date of receipt of the order, the concerned authority is directed to dispose of the representation of the petitioner by passing reasoned order



preferably within a period of three months from the date of representation of the petitioner in accordance with law.

(Alok Kumar Pandey, J)

shahzad/-

AFR/NAFR	AFR
CAV DATE	N.A.
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