

CWP-14156-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-14156-2023 (O&M)
Reserved on: 24.05.2024
Date of decision: 27.05.2024

PREM CHAND BANSAL

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Ms. Ridhi Bansal, Advocate and
Ms. Sidhi Bansal, Advocate
for the petitioner.

Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. Harsh Aggarwal, Advocate
for respondent No.2.

Mr. Viren Jain, Advocate
for respondent No.4.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner has prayed for quashing of the impugned social impact assessment report (Annexure P-8), as well as of the notifications issued respectively under Section 11 and under Section 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013 (hereinafter referred to as the “Act of 2013”) on 07.06.2022, (Annexure P-10) and, on 17.05.2023 (Annexure P-14) and all consequential proceedings including public notice dated 07.06.2023 (Annexure P-16), pertaining to the land of the petitioner comprised in the

revenue estate of village Naughara Mohala, Tehsil LDH East, District Ludhiana.

2. The above prayers become rested, upon Section 9 of the Act of 2013, whereby only upon the acquisition proceedings becoming launched through invoking the urgency provisions under Section 40 of the Act of 2013, thereupon alone the appropriate government becomes empowered to exempt the undertaking of the Social Impact Assessment study.

3. The other ground which is raised in the instant writ petition for supporting the above reliefs, is rested on the ground, that since the preliminary notification issued under Section 11 of the Act of 2013, was not uploaded on the website, thus thereby violation become caused to Section 11(1)(e) of the Act of 2013.

4. Before proceeding to decide the validity of the above made contentions, to support the granting of the writ reliefs to the present petitioner, it is necessary to bear in mind the backdrop of the case.

5. The subject project as became launched for the development and beautification of the birthplace of national martyr Shaheed-e-Azam Sukhdev Thapar, *inter alia*, includes the development of the site consisting of House No.B-4-1848, which is the birthplace of Shaheed-e-Azam Sukhdev Thapar, and is also launched for the development and beautification of the surrounding areas, so as to convert the said house along with the surrounding areas, into a site of prominence. For the purpose of developing the birthplace of Shaheed-e-Azam Sukhdev Thapar, a preliminary notification dated 18.05.2009 was issued by the Govt. of Punjab, Department and Cultural Affairs, for the purpose of

ancestral house of Shaheed-e-Azam Sukhdev Thapar as “Protected Monument” under the Punjab Ancient & Historical Monuments and Archaeological Sites and Remains Act 1964, and objections were invited from the public with regard to the intention of Government to declare the said site as a “Protected Monument”. Thereafter, vide the notification No.10/46/09-4Tc/968 dated 18.05.2009, the birthplace of Shaheed-e-Azam Sukhdev Thapar was declared as a protected monument and the constructive possession of the said property was handed over to the Department of Cultural Affairs, Museum, Govt. of Punjab, which is otherwise being managed by a private trust namely ‘Shaheed Sukhdev Thapar Memorial Trust’.

6. This Hon'ble Court, while disposing of the said writ petition bearing No.CWP 884 of 2012, vide order dated 30.08.2013, thus observed that the Central Govt., had previously sanctioned Rs. 81 Lakh to be spent for the development and beautification of the ancestral and birthplace Shaheed-e-Azam Sukhdev Thapar. Furthermore, it was further directed by this Court to complete the development and restoration work of the site within a period of 4 months. It was also directed by this Court that the abovesaid 'Trust' namely 'Shaheed Sukhdev Thapar Memorial Trust' would also be kept associated with the activities concerning the maintenance, upkeep, development and beautification of the subject site, keeping in the view their historical contribution to the activities concerning the glorification of Shaheed Sukhdev.

7. Apart from the above grant of Rs. 81 lakhs, sanctioned by the Central Govt., an amount of Rs.1 Crore had also been declared by the then Chief Minister of Punjab, on 15 August 2018, during Independence

Day celebrations, to be spent for the beautification and development of the site in question.

8. Keeping in mind the need for having sufficient area so as to constitute proper access to the subject site, it was expedient in 'public interest' that the land surrounding the house of Shaheed Sukhdev Thapar be acquired for the development of the said historical & cultural site and for providing sufficiently wide and proper access to the birthplace of the revered martyr Shaheed-e-Azam Sukhdev Thapar.

9. In the year 2019, pursuant to the said sanction of grants and keeping in view the abovesaid need to provide proper and direct access to the subject site, that the process to acquire a property bearing No.B-VI-1837 of the present petitioner, was undertaken as the same was coming in the way of providing direct and wide access to the birthplace of Shaheed-e-Azam Sukhdev Thapar.

10. Having perused the backdrop of the subject project, it is deemed imperative to allude to the arguments as addressed before this Court by the learned counsel for the petitioner, and, which becomes banked upon Section 9 of the Act of 2013, provisions whereof becomes extracted hereinafter.

“9. Exemption from Social Impact Assessment.--
Where land is proposed to be acquired invoking the urgency provisions under section 40, the appropriate Government may exempt undertaking of the Social Impact Assessment study.”

11. Though it is not contested by the learned counsel for the respondents that the subject acquisitions were not made through invoking the urgency provisions embodied under Section 40 of the Act of 2013,

whereupon alone the appropriate government became empowered to exercise discretion to not undertake the preparation of Social Impact study, thereupon there was a dire statutory necessity cast, upon the respondent concerned, to undertake the exercise of preparing the Social Impact study relating to the subject project.

12. It is not disputed that the said undertakings were made, at the instance of the respondent concerned. If it be so it is further contended by the learned counsel for the petitioner that there was an imperative necessity of a personal hearing being granted to the present petitioner, thus in terms of Section 15(1) of the Act of 2013, provisions whereof becomes extracted hereinafter, especially when in the relevant objections, it became portrayed by the petitioner, that the findings recorded in the Social Impact Assessment Report, rather were flawed.

“15. Hearing of objections.-- (1) Any person interested in any land which has been notified under sub-section (1) of section 11, as being required or likely to be required for a public purpose, may within sixty days from the date of the publication of the preliminary notification, object to—

(a) the area and suitability of land proposed to be acquired;

(b) justification offered for public purpose;

(c) the findings of the Social Impact Assessment report.

xxx”

13. In the above regard, the objections as become preferred, become embodied in Annexure P-15. However, a reading of the above objections does not reveal that therebys there was any objection appertaining to the validity of the findings as became entered in the Social Impact Assessment Report. The consequent effect of the omission

(supra), is that thereby the said objections became waived and abandoned and resultantly therebys an estoppel is created against the raising of the said ground before this Court.

14. Now alluding to the secondary argument, rather relating to non uploading in terms of Section 11(1)(e) of the Act of 2013, of the preliminary notification on the website concerned, there is a specific reply on affidavit, whereby it is contended that the said preliminary notification was uploaded, therebys too, it can be said that the said objection is idly raised, and, is required to be rejected.

15. Be that as it may, pertinently since the objections were raised by the petitioner, as become embodied in Annexure P-15, therebys it appears that he had knowledge *qua* the issuance of the preliminary notification, as such the inference therefrom, is that, the above argument is raised in a most mechanically and desultory manner and is required to be rejected.

16. In aftermath, there is no merit in the instant writ petition, and this Court is constrained to dismiss the same. Hence, the instant writ petition is dismissed.

17. The miscellaneous application(s), if any, is/are, also disposed of.

(SURESHWAR THAKUR)
JUDGE

27.05.2024

Ithlesh

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

(SUKHVINDER KAUR)
JUDGE