

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18460 of 2021

1. Shiv Pujan Mehta, Son of Late Bhola Mehta, Resident of Village - Goasi, P.S. - K.Nagar, District - Purnea.
2. Chamak Lal Mehta, Son of Teman Mehta, Resident of Village - Goasi, P.S. - K.Nagar, District - Purnea.
3. Raghunath Mehta, Son of Kishnu Mehta @ Kishun Mehta, Resident of Village - Goasi, P.S. - K.Nagar, District - Purnea.
4. Vijay Mehta @ Bijal Mehta, Son of Late Tanuki Mehta, Resident of Village - Goasi, P.S. - K.Nagar, District - Purnea.
5. Raj Kumar Mehta, Son of Kailu Mehta, Resident of Village - Goasi, P.S. - K.Nagar, District - Purnea.
6. Upendra Mehta, Son of Rabbi Mehta, Resident of Village - Goasi, P.S. - K.Nagar, District - Purnea.
7. Badri Mehta, Son of Sukhay Mehta, Resident of Village - Goasi, P.S. - K.Nagar, District - Purnea.
8. Gujai Mehta, Son of Tufani Mehta, Resident of Village - Goasi, P.S. - K.Nagar, District - Purnea.
9. Saldev Yadav, Son of Munshi Yadav, Resident of Village - Goasi, P.S. - K.Nagar, District - Purnea.
10. Sita Ram Mehta, Son of Mushaharu Mehta, Resident of Village - Goasi, P.S. - K.Nagar, District - Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary Department of Revenue and Land Reforms, Govt. of Bihar, Patna.
2. The Director, Land Acquisition, Bihar.
3. The Collector, Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Raghib Ahsan, Sr. Advocate Mr. Bipin Kumar, Advocate
For the Respondent/s	:	Mr. Md. Khurshid Alam (AAG-12) Mr. Asif Kalim, AC to AAG-12 Md. Irfanul Haque, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

11 18-08-2025 The petitioners have invoked constitutional writ jurisdiction of this Court under Article 226 of the Constitution of India for the following relief(s) :-



“(a) To quash the order as contained in Letter No.760/Rev., Patna dated 15.09.2020 passed by Respondent No.2 whereby and whereunder the objection filed by the petitioners under Sections 15(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (hereinafter referred to as the Act) has been rejected by the Department concerned.

(b) To quash the notification issued U/s 11(1) of the Act by the Respondent Collector and the District Land Acquisition Officer, Purnea as contained in Notification No.230 dated 03.06.2019 whereby and whereunder, the respondent Collector purported to acquire 52.18 acres land as detailed therein which includes the lands held by the petitioners.

(c) Whether the respondents State Government erred in rejecting the objection without giving opportunity of hearing to the petition and without taking into consideration that no report as required U/R 6(2) of RFCTLARR (Compensation, Rehabilitation and Resettlement and Development Plan) Rule-2015 (for short Rules) was sent by the Collector, Purnea.”

2. Shown of unnecessary details, suffice it to record that by a Notification No.230 dated 03.06.2019 under Section 11(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013,



the Collector Purnea issued a notification for acquisition of land measuring about 52.18 acres in the District of Purnea for public purpose, viz. construction of an Airport Enclave and adjoining road. Originally, the said land belongs to the petitioners.

3. Some of the petitioners and their predecessors-in-interest challenged the said notification dated 03.06.2019 by filing CWJC No.24341 of 2019. The said writ petition was disposed of on 18.02.2020. In the said writ petition it was never challenged by the writ petitioners that by virtue of notification No.16/2014-521 dated 28.04.2014 issued by Revenue and Land Reforms Department (Land Acquisition Directorate), Government of Bihar that the Collector is not empowered to acquire more than 50 acres of land for public purpose and in the instant case, since the Collector has issued notice for acquisition of 52.18 acres of land, the said notification is bad in law and violative of Article 300A of the Constitution of India.

4. This is the precised reason why the Coordinate Bench of this Court in CWJC No.24341 of 2019 decided as hereunder:-

“18. It is further clarified that the Court has not set aside or interfered with the initial notification under Section 11(1) of the Act and only the subsequent rejection of the objections in the manner, as discussed above, has been held to be



unsustainable.”

5. The learned Senior Counsel on behalf of the petitioners has challenged the post-facto approval of acquisition of land by the Director, Land Acquisition Department, Government of Bihar dated 15.09.2020. It is contended by the learned Senior Counsel on behalf of the petitioners that post-facto approval dated 15.09.2020 (Annexure-P/2) was issued by the Director, Land Acquisition Department, Government of Bihar without considering the objection submitted by the petitioners on the basis of the direction made by this Court in CWJC No.24341 of 2019.

6. Thus, it is contended on behalf of the petitioners that the Director or the Additional Director, Land Acquisition Department, Government of Bihar cannot issue any post-facto approval of acquisition of land more than the ceiling limit, which has been prescribed for acquisition by the Collector and without considering the objection submitted by the petitioners before the Collector.

7. The learned Advocate on behalf of the State-Respondents made a preliminary objection against the maintainability of the instant writ petition on the ground that the writ petition is barred by the principle of constructive res-judicata.



8. In support of his contention, he refers to a three Judges Bench judgment of the Hon'ble Supreme Court in the case of *State of Uttar Pradesh Vs. Nawab Hussain*, reported in *(1977)2 SCC 806*.

9. It is contended on behalf of the respondents that the petitioners could have challenged the post-facto approval dated 15.09.2020 in the earlier writ petition, which was disposed of on 18.02.2020. Since, the said issue was not agitated by the petitioners they are barred from raising the said issue in the instant writ petition.

10. Probably, it has lost side of the learned Counsel for the State that previous writ petition was filed in the year 2019 and the same was disposed of on 18.02.2020. The impugned, post-facto approval was issued on 03.01.2020 i.e. after filing of the writ petition on behalf of the petitioners.

11. Under the facts and circumstances of the chain of events, petitioners have no opportunity to challenge post-facto approval dated 03.01.2020 in the previous writ petition. Therefore, the instant writ petition is not barred by constructive res-judicata.

12. Be that as it may, when a Coordinate Bench has already decided in CWJC No.24341 of 2019 that initial notification under Section 11(1) of the said Act was not bad in



law, in a subsequent writ petition, the said order (Annexure-1) cannot be challenged before this Court.

13. At the time of arguments, the learned Advocate for the State has produced entire file of the concerned acquisition case. However, he could not produce the report filed by the petitioners before the Collector and the reasoned order passed by him after giving opportunity of hearing to them.

14. Therefore, this Court is not in a position as to whether reasoned report was prepared by the Collector on the basis of the objection submitted by the petitioners.

15. In view of such circumstances, the instant writ petition is disposed of directing the respondent No.3-The Collector, Purnea to dispose of the written objection filed by the petitioners, if not already disposed of. In case, the written objection was disposed of by the Collector, Purnea he will hand over the same to the petitioners within three weeks from the date of communication of this order.

16. Accordingly, the instant writ petition is, thus, disposed of.

(Bibek Chaudhuri, J)

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