

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

W.P.A. 15142 of 2016

Anup Mula & Ors.

-Vs-

West Bengal Power Development Corporation Limited & Anr.

With

W.P.A. 1343 of 2019

Anup Mola & Ors.

-Vs-

West Bengal Power Development Corporation Limited & Anr.

For the Petitioners	: Mr. Rananeesh Guha Thakurta Ms. Senjuti Sengupta
For the Respondent Nos. 1 & 2	: Mr. Ranjay De Mr. Basabjit Banerjee
Heard on	: 21.11.2024, 23.12.2024, 31.07.2025
Judgment on	: 24.10.2025

Ananya Bandyopadhyay, J.:-

1. The petitioners have approached this Hon'ble Court invoking its extraordinary constitutional writ jurisdiction under Article 226 of the Constitution of India, seeking a writ in the nature of mandamus commanding the respondent authorities to engage the petitioner no. 1 under the Land-Loser category, and to extend suitable employment to the nominee

of petitioner no. 3, whose land was acquired for the establishment of the Kolaghat Thermal Power Project of the West Bengal State Electricity Board (now under the WBPDC).

2. It is the admitted position that during 1973-74, the ancestral land belonging to Smt. Lata Rani Manna (petitioner no. 3), being C.S. Plot Nos. 600 and 602 of Mouza Rakshachak, J.L. No. 293, P.S. Panskura, was acquired in connection with the said thermal power project vide L.A. Case No. 141 of 1973-74. Possession of the said land was duly taken on 30th July, 1974, and compensation was disbursed on 27th January, 1980. Thereafter, the competent Land Acquisition Officer, Midnapore, by certificate dated 20th March, 1986, formally declared her as a "Land Loser" entitled to the benefits conferred upon such category of affected persons.
3. The record reveals that upon acquisition, the respondent authorities had assured that one eligible family member of the land-loser would be provided employment under the land-losers' rehabilitation scheme. Acting on such assurance, the husband of petitioner no. 3, Sri Ananta Kumar Mula (petitioner no. 2), was called upon by the respondent project authorities by letter dated 10th December, 1981, to submit his credentials in connection with his candidature under the said category. Subsequently, vide letter dated 12th January, 1984, the said petitioner was directed to appear in a written test scheduled on 28th January, 1984.
4. The petitioner no. 2, along with similarly situated persons, filed C.O. No. 8497 (W) of 1991, praying for regularization of their services, which was allowed by this Hon'ble Court on 7th April, 1999. Though the management

preferred M.A.T. No. 2243 of 1999, the Hon'ble Division Bench, by order dated 14th December, 2004, did not materially interfere with the single bench order. Thereafter, the matter travelled up to the Hon'ble Supreme Court in Civil Appeal No. 2863 of 2006, whereupon by order dated 21st April, 2010, the Hon'ble Apex Court was pleased to set aside the orders under appeal, granting liberty to the petitioners to approach the concerned authority for redressal of grievances in accordance with law.

5. In the interregnum, petitioner no. 2 continued as a contract labourer under various contractors engaged by the respondent power project. These contractors acted as ostensible employers, maintaining administrative control and statutory compliances, including EPF and ESI contributions, though the actual work was performed under the direct supervision and control of the principal employer, i.e., the respondent power utility.
6. Subsequently, the contract labourers, including the petitioner no. 2, raised an industrial dispute which was referred for adjudication before the Learned Second Labour Court, being Reference Case No. VIII-85/2014, wherein, inter alia, the issue of whether the contract between WBPDCCL and its contractor was a "sham and camouflage" to defeat the workmen's legitimate right of absorption came to be considered.
7. Out of the lawful wedlock between petitioner nos. 2 and 3, petitioner no. 1, Sri Anup Mula, was born in 1992, nearly two decades after the acquisition of the family land. With the passage of time, petitioner no. 2, now approaching superannuation, nominated his son—the petitioner no. 1—as the eligible

heir for employment under the Land-Loser category, as communicated to the authorities by representation dated 19th January, 2016.

8. The petitioners assert that despite repeated representations dated 6th February 2016, 27th February 2016, and 25th May 2016, no response or positive action was forthcoming from the respondent authorities. Instead, by communication dated 28th January, 2016, the respondents washed their hands off the matter, taking contradictory pleas—that they neither interfered in the affairs of their contractors nor had any scope to extend employment except as per Government notifications.
9. It is further the grievance of the petitioners that the subsequent employment notifications issued in 2018 by the respondent authorities completely omitted any category for land-losers, thereby extinguishing the statutory and legitimate expectation of those whose lands had been acquired decades earlier. Such omission, the petitioners contend, amounts to a constitutional wrong and a denial of the doctrine of legitimate expectation.
10. The petitioners submit that the deprivation of employment, despite the respondents' continued use of the acquired land for public utility purposes, constitutes a manifest injustice and an arbitrary exercise of administrative discretion, violative of Articles 14 and 21 of the Constitution of India. The respondents' dual stand, first disclaiming responsibility over contractors and second citing rigid adherence to Government notifications, is self-contradictory and unsustainable in the eyes of law.
11. The case of the petitioners is founded upon the principle that when land is acquired for public purpose, a moral and legal obligation devolves upon the

acquiring body to provide rehabilitation or employment to the displaced persons or their nominees, as recognised by successive policy decisions of the State. The non-consideration of the petitioners' claim, therefore, is not only a breach of administrative fairness but also an infraction of the constitutional promise of socio-economic justice.

12. The inaction, indifference and evasive conduct of the respondent authorities for over four decades, despite repeated requests, representations and judicial directions, has resulted in palpable hardship and loss to the petitioners. Such conduct deserves judicial correction in exercise of this Hon'ble Court's writ jurisdiction.

13. The Learned Advocate representing the petitioner submitted as follows:-

(i) Consequent upon the acquisition of the lands belonging to petitioner no. 3, possession of which was taken on 30th July, 1974, and compensation disbursed on 27th January, 1980, the said petitioner attained the status of a "Land-Loser" within the meaning of the rehabilitation framework applicable to the Kolaghat Thermal Power Project. The respondents, despite having utilized her land for establishment of a public utility undertaking, have failed to offer employment either to her or to any of her lawful nominees. Such denial of employment constitutes a clear breach of the solemn stipulations governing the acquisition process, which confers upon the affected land-losers a legitimate right to rehabilitation through employment. The said omission, being

arbitrary and unreasonable, warrants interference by this Hon'ble Court.

- (ii) The policy and procedural framework underlying land acquisition for public undertakings envisages rehabilitative engagement of at least one family member of the dispossessed land-owner. The failure of the respondent authorities to adhere to such binding stipulations, despite categorical acknowledgment of the petitioner no. 3 as a land-loser, renders their conduct illegal, arbitrary, and violative of the principles of administrative fairness. The respondents' inaction thus calls for judicial correction in exercise of writ jurisdiction.
- (iii) Consequent upon the acquisition of the 3rd petitioner's land, an expectation legitimately arose that employment would be extended either to her or to her nominee—now represented by petitioner no. 1. The respondents' failure to consider and provide such employment constitutes a denial of legitimate expectation, a doctrine firmly rooted in the constitutional guarantee of non-arbitrariness. The respondents' omission is therefore bad in law, warranting scrutiny and interference by this Hon'ble Court.
- (iv) The 3rd petitioner, having surrendered her land for the establishment of the 2nd respondent on a bona fide belief and legitimate assurance that her family would be provided employment, has been deprived of such right for over four decades. Such deprivation amounts to a denial of socio-economic justice

and a violation of fundamental rights under Articles 14 and 21 of the Constitution of India. The respondents' apathy strikes at the heart of constitutional morality and offends the doctrine of fairness in State action, rendering the impugned inaction patently unsustainable in law.

- (v) The respondents' denial of relief on a two-fold premise—first, that employment to land-losers must strictly adhere to Government notifications, and second, that they exercise no control over their contractors—is untenable in law. Such contentions, besides being self-contradictory, are indicative of an attempt to evade statutory and moral obligations. The respondents, being a public sector undertaking performing governmental functions, cannot be permitted to hide behind contractual formalities to defeat legitimate claims arising from land acquisition for public purpose. The petitioners now stare at an uncertain and precarious future, despite their family's selfless contribution to the development of a public project. The denial of employment, notwithstanding repeated representations and judicial indulgence, epitomizes bureaucratic indifference and administrative apathy, which this Hon'ble Court, as a constitutional sentinel, is empowered to rectify.

- (vi) The respondents' selective and discriminatory treatment towards similarly situated land-losers violates the mandate of Article 14 of the Constitution of India, which guarantees equality before the law

and equal protection of laws. The arbitrary denial of employment to the petitioner's family, while extending such benefits to others similarly placed, is a manifest infraction of constitutional equality, thus attracting judicial intervention.

(vii) The impugned non-actions and inactions on the part of the respondents are the product of complete non-application of mind, demonstrating absence of due consideration to the petitioners' long-standing claim and representations. Such omission reflects a failure to exercise discretion judiciously and is therefore amenable to correction under the writ jurisdiction of this Hon'ble Court.

(viii) The respondents' prolonged silence and persistent refusal to act upon a legitimate and policy-backed claim is otherwise bad in law, violative of the rule of law and contrary to the constitutional vision of a welfare State. The impugned actions and omissions are thus liable to be quashed and set aside by this Hon'ble Court, restoring to the petitioners their lawful entitlement and dignity.

14. The Learned Advocate representing the respondents emphasized on the statutory Provision for Employment of "Land Losers" stating:- Clause 3 of the Gazette Notification No.301 dated 21.08.2002 clearly specified the families of 'Land Losers' should come within the ambit of "Exempted Category" and one of the members of that family should be eligible for consideration against the vacancies reserved for the "Exempted Categories". Secondly, the said circular had been issued in supersession of all earlier circulars. Thirdly, the procedure for engagement of the persons belonging to the 'Land Loser'

category had also been enumerated in Notification No.303 dated 21.08.2002. After the promulgation of the said Circulars, the Respondent Company had been statutorily debarred to consider the prayer for engagement of a 'Land Looser' under any circumstances.

15. It was further submitted the prayer for employment in respect of the 'Land Losers', whose lands were acquired by the Government before 17.10.1977, and the ones who were not covered under the notification dated 21.08.2002 as aforesaid, was considered in writ proceedings being W.P. No. 22169 (W) of 2010 (*Arun Kumar Manna and Ors. vs. The State of West Bengal and Ors.*) whereby vide a judgement and order dated 19.09.2013, this Court clarified the stand of the State Government to enure benefit of a straightway appointment only in respect of the one of the family members of the 'Land Losers' whose land was acquired on and after 17.10.1977. Moreover, in the instant Writ Application, admittedly the Petitioner did not challenge the Notification and as such he was bound by the order as aforesaid.
16. A Division Bench of the Hon'ble High Court in the case reported in 2002 (1) CHN 404 at paragraph 6, had been pleased to hold that giving employment to Land Losers' was a matter of concession and such concession could not be enforced in a Writ Proceedings. The State cannot be directed to be overburdened for giving employment to the said persons over and above the compensation already paid to them. The writ petitioner no. 1 being the son of petitioner no. 2 and petitioner no. 3, was born on 26.07.1992 nearly two decades after the land had been acquired by the State Government. The writ petitioner no. 1, after a period of nearly 4 decades, approached this Hon'ble

Court for appointment as a land loser being a candidate belonging to exempted category (WPA 15142 OF 2016). The subsequent writ application being WPA 1343 OF 2019 had been filed after a period of more than 4 decades. A Division Bench of this Hon'ble Court in respect of the Respondent Company (FMA 1757 OF 2019 WITH IA CAN 01 OF 2021 - Dulal Maiti & Anr. Vs. The Special Secretary, Power & The Managing Director, West Bengal Power Development Corporation & Ors.) had been pleased to reject the claim of a land loser for employment after a period of 29 years holding that the prayer for employment could not survive at the end of 40 years, placing reliance on the well-recognized principle in law that delay defeats equity.

17. It was further submitted the claim for appointment could not continue in perpetuity. The Respondent Company was a Government of West Bengal Enterprise and was a "State" under Article 12 of the Constitution of India. It had to act as a model employer and in contradiction of the law of the land including the relevant statutory provisions. The petitioner no.3 being the owner of the land got compensation for acquisition of the same by the State Government. She nominated her husband, the petitioner no.2 as her family member for employment when the said power generating unit was under WBSEB. There was no mandate, statutory or otherwise conferring a positive right upon the petitioner no. 3 to keep on nominating her future generations as family member. Admittedly, when the petitioner no. 3 nominated the petitioner no. 1 being her son in between nearly 4 decades elapsed. Therefore, no equitable right could ever be accrued in her favour especially when she got compensation and there was no assurance either by the State

Government or by any authority for providing her an opportunity to keep on nominating her family members even the future generations. It would not be out of place to mention that the Gazette Notification dated 21.08.2002 was passed in supersession of all other circulars issued by the State Government from time to time. Moreover, after promulgation of the Act of 1999 as mentioned hereinabove, the Respondent Company got no statutory authority to engage any person or land loser nor any family member of a land loser could ever claim any statutory right far less of an equitable right towards an appointment in a straightway manner in an establishment for which the land was acquisitioned by the State Government.

18. The petitioner no.1 being the son of petitioner no.2 and 2 had applied for the post of Sub Assistant Engineer (Civil) Probationer in pursuance of Employment Notification No.WBPDCL/Recruitment/2015-2016/05 issued by the West Bengal Power Development Corporation Limited, i.e., the respondent authority.
19. The petitioner no.1 was subsequently issued an admit card to appear for the written test to be held on 12th of June, 2016 stating the registration number, roll number and the category as applied for being unreserved evident from the documents annexed with the writ petition.
20. The petitioner no.1 failed to qualify in the written examination as aforesaid held on 12.06.2016. On 2nd of August, 2016, writ petition being No.15142 of 2016 was filed by the petitioner no.1 for a direction to be issued by this Court commanding the respondent authority to suitably engage him in the services in Land Loser Category. Petitioner no.2 and 3 had addressed the

Deputy General Manager HR (P & A), Kolaghat Thermal Power Project through a communication dated January 19, 2016, *inter alia*, stated as follows:-

“The first undersigned’s lands was acquired for the construction of Kolaghat Thermal Power Project as such she became entitled to the benefits as a Land-looser including a job for herself or her nominee. The first undersigned had duly nominated her husband Shri Ananta Kumar Mula (the second undersigned) who was called for interview on 2 occasions but was never appointed by WBSEB, the predecessor of WBPDC. Photo-copy of the certificate as issued by the Land Acquisition Officer, Midnapore dated 20/03/1986 is enclosed herewith for your kind perusal.

The second undersigned, based upon his qualification, somehow managed to land a job under contractor appointed by you and our family have somehow survived on the strength of such job. The second undersigned is nearing the age of superannuation and we are staring at utter starvation again as the said acquired lands was the only source of sustenance.

Our only son, Shri Anup Mula is a duly qualified Diploma in Civil Engineering after having passed the Higher Secondary examinations with flying colours. We are desirous and nominate him for engagement a “Pump Operator” under the contractor to be engaged to operate Deep Tube Well Pumps at Kolaghat Township area or any other appropriate job so as to enable our family to lead a life of dignity. Photo-copies of the Higher Secondary certificate and the certificate issued by Nibedita Institute of Technology are enclosed herewith for your kind perusal.

The acquired lands had been the sole source of sustenance and we hope that you arrange for a suitable job for our son, Shri Anup Mula at the earliest.

.....”

21. In reply to the aforesaid communication, the Deputy General Manager (HR &A)-O KTPS: WBPDCCL through a communication being Memo No.GM/KTP/HR&A/542 dated 28.01.2016 replied as follows:-

“In your letter, it appears that in one hand you have admitted the fact that Sri Ananta Kumar Mula, your husband is a contract labour confirming absence of employer-employee relationship between your husband and our organization and on the other hand, you are approaching us to nominate your son Sri Anup Mula for his engagement as a pump operation under the contractor. This mutually destructive stand on your part is really unheard of.

We make it abundantly clear that in the absence of employer-employee relationship we are no way concerned with the attainment of so called retirement age by Sri Ananta Kumar Mula, your husband nor we have anything to do with the engagement of your son under any contractor. We never as a matter of policy interfere or intervene with the functioning of the contractor and it is entirely for him to decide for taking any person under his employment with which the management has got no role to play in any manner whatsoever.

So far as persons belonging to families of land losers are concerned, the same is strictly governed by relevant notifications issued by the Government of West Bengal, Labour Department, and the management of the company has got nothing to do with the same.

Under these circumstances, you are advised not to interact with us on any account as being a law abiding organization, we should not be invited and persuaded to act contrary to the law of the land.”

22. A communication dated February 06, 2016 addressing to the Deputy General Manager HR (P & A), Kolaghat Thermal Power Project, an unit of West Bengal Power Development Corporation, by the petitioner no.2 and 3 stated as follows:

“.....

The acquired lands had been the sole source of sustenance and as per the prevalent Work Orders including the Work Order being memo # SE(C)/TC/KTP/303/417 dated 16-09-1988, the stipulation is there to the effect that Contractors need to employ/recruit personnel required for unskilled job involved in the work from amongst “Land Losers” recommended by the local advisory committee (which is not in existence now and you are duty bound to implement its bounden duties) for such job and NO OUTSIDERS shall be employed without obtaining the clearance from you as such you should ensure our prayers be allowed.

In your above-referred reply, you have mentioned about mutually destructive pleas being taken whereas in our earlier representation, there is none such. We have all along maintained that the 1st undersigned or her nominee, the 2nd undersigned was entitled to a job but the same was not given and the 2nd undersigned somehow landed a job with a contractor, who is an artificial intermediary who has been inserted only to avoid the rigorous of the laws relating to labour and industrial sphere, which is in-fact the subject matter of an industrial dispute as pending before the Learned 2nd Labour Court, West Bengal being Case no. VIII-85/14.

We, however, are not making any pleas in relation to the said case but as a fervent plea of a couple who have lost their “lands”, the only asset which we had and was acquired and staring at a dark bleak future with the impending superannuation of the 2nd undersigned.

We, once again pray before you to kindly re-consider the matter and arrange for a suitable job for our son, Shri Arup Mula at the earliest and oblige.”

23. The Notification No.301-EMP/1M-10/2000 dated 21st August, 2002 Labour Department, Government of West Bengal, published in the Kolkata Gazette, stated as follows:-

“.....

3. *Persons belonging to the families of land losers: Candidates hailing from families who might have been uprooted from their places of residence due to acquisition of homestead land by the Government or whose main source of income is substantially affected due to loss of agricultural land as a result of the land in question being acquired by the Government for public purpose shall also be covered in this category.*

Only one member from an uprooted/affected family shall be eligible for consideration against vacancies reserved for the exempted categories. This beneficiary should be either an awardee of compensation for acquisition of land or a member of the family of the awardee.

This shall be applicable only in respect of cases where the land in question has been acquired by the State Government on or after 17th October 1977.”

24. The Notification No.303-EMP/1M-10/2000 dated 21st August, 2002 Labour Department, Government of West Bengal, published in the Kolkata Gazette, stated as follows:-

“.....

1) *Persons belonging to the families of Land Loser: (1) For the purpose of enlistment of eligible persons of this category the Government may constitute a screening committee for a District/Sub-Division. The Screening Committee will prepare a combined list in order of priority for families affected by acquisition of land and forward the same to the District Magistrate concerned. Till such Committee is formed the District Magistrate concerned will prepare the list of eligible persons of this category.*

2) *Only one member of a family of land loser will be eligible for consideration for enlistment in the exempted category. The*

beneficiary should be either an awardee of compensation for acquisition of land or a member of his family as may be nominated by the awardee.

3) The order of priority in the list will be determined by the date of acquisition in chronological order.

4) The priority list should contain the name of the persons seeking employment, the nature and quantum of land acquired and quantum of land owned by the family, the employment surplus and earnings of the members of the family. The date of birth, educational standard of the enlisted person should be indicated in the list. If any such person belongs to the Scheduled Cast/Scheduled Tribes or Backward Classes that should be indicated against his name. In case of persons with disabilities the natures of disabilities may also be indicated...

5) In case of any doubt regarding the eligibility of a person and/or other connected issue reference may be made to Labour Department for clarification and/or decision.

6) The District Magistrate concerned will forward the list of eligible persons to the Director of Employment, West Bengal, and advise the enlisted persons to enroll their names in the Exempted Category Cell of the Directorate of Employment, West Bengal at 67, Bentinck Street, Kolkata-700069 by producing supporting papers. List of eligible persons of the category of land losers already prepared and maintained by the District Magistrate in terms of the earlier circulars issued by the Labour Department shall also be forwarded to the Director of Employment, West Bengal. The District Magistrate concerned advise such enlisted persons to get their names enrolled in the Exempted Category Cell of the Directorate of Employment by producing supporting papers.

.....”

25. Clause 3 of the Gazette Notification No. 301 dated 21st August, 2002 unequivocally delineates that families of “Land Losers” shall fall within the ambit of the “Exempted Category” and that *only one member of such family* shall be eligible for consideration against vacancies reserved for the said category. The said Notification, having been promulgated in supersession of all prior circulars, carries overriding statutory effect.
26. Further, Notification No. 303 of the same date prescribes the comprehensive procedural guidelines for engagement of persons under the “Land Loser” category. Henceforth, the Respondent Authority is divested of any authority, administrative or discretionary, to entertain claims for employment outside the parameters of these statutory provisions. Any appointment dehors the said notifications would be ultra vires and contrary to the legal framework.
27. The issue of entitlement to employment by land losers, whose lands were acquired *prior to 17th October, 1977*, has been conclusively settled in *W.P. No. 22169 (W) of 2010 (Arun Kumar Manna & Ors. vs. State of West Bengal & Ors.)*, wherein this Hon’ble Court, by its judgment dated 19th September, 2013, categorically held that *only those land losers whose lands were acquired on or after 17th October, 1977* shall be entitled to consideration for direct appointment under the exempted category.
28. In the said judgment, it was further held that where the Notification itself was not challenged, the petitioners were bound by its terms. Moreover, a Division Bench of this Hon’ble Court, in the decision reported in *2002 (1) CHN 404*, held in specific terms that employment to land losers had been a *matter of concession and not of right*, and such concession could not be

enforced through a writ petition. The Court cautioned that the State could not be burdened beyond the statutory compensation already paid upon acquisition of land.

29. Admittedly, the land belonging to petitioner no.3 was acquired in the year 1973–74, and compensation was duly received by her. Subsequent to her marriage, she nominated her husband (petitioner no.2) for employment. The present petitioner no.1, being their son, was born in 1992, nearly *two decades after the acquisition*. He approached this Hon'ble Court after an inordinate delay of *over four decades*, seeking employment under the land loser category (WPA 15142 of 2016; WPA 1343 of 2019).
30. A Division Bench of this Court in *FMA 1757 of 2019 with CAN 01 of 2021 (Dulal Maiti &Anr. vs. The Special Secretary, Power & Ors.)* has held that a claim for employment made *after 29 years* of land acquisition is hopelessly delayed and barred by laches. Applying the equitable principle that *delay defeats equity*, it was held that no relief could be granted at the end of 40 years when the claim had become stale and unenforceable.
31. It is a settled proposition of law that *no claim for appointment can subsist in perpetuity*. The Respondent Authority, being an instrumentality of the State under Article 12 of the Constitution of India, is enjoined to act as a model employer within the confines of statutory prescriptions.
32. Petitioner no.3, having received compensation, cannot claim an enduring or transmissible right to employment for successive generations. The nomination of her husband was permissible only within the framework then prevailing. However, after the lapse of nearly four decades, any subsequent

nomination of her son as a “family member” cannot confer a legal or equitable right. Such indefinite extension of benefits across generations is neither contemplated by the statute nor tenable in law.

33. The Gazette Notification of 21st August, 2002, having been issued in *supersession* of all prior circulars, extinguishes any residual claim or expectation under earlier policies. Moreover, upon the enactment of the *West Bengal Power Development Corporation Act, 1999*, the Respondent Company lost any independent statutory authority to engage land losers beyond the Government-prescribed norms. Thus, the claim of the petitioners is devoid of any legal sanctity.

34. In view of the above discussions, the instant writ petitions being WPA 15142 of 2016 and WPA 1343 of 2019 are dismissed.

35. There is no order as to costs.

36. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)