



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Civil Writ Petition No. 27183 of 2025 (O&M)
Date of Decision: 07.04.2026

Bir Singh
..... Petitioner

Versus

Union of India and others
..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Satbir Rathore, Advocate
for the petitioner-landowner.

Mr. Rishi Kaushal, Advocate with
Ms. Komal Bishnoi, Advocate
for respondent Nos. 1 & 2-NHAI.

Mr. Puru Jarewal, Deputy Advocate General, Punjab
for respondent Nos. 3 & 4.

HARKESH MANUJA, J. (ORAL)

The petitioner-landowner, by way of present petition, seeks issuance of a writ in the nature of certiorari quashing the impugned Award dated 18.01.2024 (Annexure P-4) passed by respondent No.4 totally in an illegal, arbitrary and discriminatory manner, without considering the award pertaining to the same acquisition and of the same village; for the same kind of land and further prays for issuance of a writ in the nature of mandamus directing the respondents to pay the similar amount of compensation as has been awarded to the identically placed landowners in accordance with an arbitral Award dated 28.07.2011 (Annexure P-5) passed by the Commissioner, Jalandhar Division-cum-Arbitrator (**hereinafter to be referred as “Arbitrator”**) in case No.MA-494-2009, titled “*Smt. Lilawati and others* **Versus** *Govt. of India and others*”; which was not challenged

further by the respondent-NHAI and the same attained finality and has also been implemented in the year 2020 in execution proceedings.

[2] Reply on behalf of respondent Nos. 1 & 2-NHAI has already been filed and taken on record.

FACTS

[3] Briefly stating, some land owned by the petitioner situated in the revenue estate of Village Dugri Rajputan (situated within municipal limit), Tehsil Mukerian, District Hoshiarpur, came to be acquired in terms of notifications dated 24.12.2004 & 11.07.2005 issued under Sections 3-A & 3-D of the National Highways Act, 1956 (**for short “1956 Act”**) respectively for the *improvement and widening of Jalandhar-Pathankot National Highway-1A KM 26.00 to 117.50 in the State of Punjab*. On 23.04.2008, respondent No.3 passed an award under Section 3-G (1) of the 1956 Act, whereby the market value was assessed at the rate of Rs.50,000/- per *marla*.

[3.1] Being aggrieved, the petitioner sought arbitration invoking Section 3-G (5) of the 1956 Act, wherein vide Award dated 28.04.2011 (Annexure P-2), the learned Arbitrator assessed the market value of the acquired land at the rate of Rs. 1,50,000/- per marla for commercial and Rs. 1,25,000/- per marla for residential, besides award of other statutory benefits.

[3.2] Thereafter, respondent Nos.1 & 2 assailed the validity of the arbitration award dated 28.04.2011 before the Court of learned Additional District Judge, Jalandhar, having preferred Arbitration Case No.0800070/2011, which was allowed on 19.04.2012 (Annexure P-3) and after setting aside the Award dated 28.04.2011, the matter was remitted back to the learned Arbitrator for fresh decision.

[3.3] Later, after about 12 years of the above said remand order dated 19.04.2012, the learned Arbitrator vide its award dated 18.01.2024, adjudicated the matter afresh and dismissed the claim petition filed by the petitioner for enhancement of compensation. In doing so, learned Arbitrator ignored the award dated 28.07.2011 (Annexure P-5) passed in arbitration case of **Smt. Lilawati (supra)** pertaining to the same village; the acquisition made for the same public purpose, and of identical nature of land. The learned Arbitrator overlooked the fact that some identically placed landowners whose land was acquired under the same notification dated 24.12.2004 issued under Section 3-A of 1956 Act; for the same public purpose; followed by the same award dated 23.04.2008; were granted the benefit of enhanced market value at the rate of Rs.2,30,000/- per marla for similar nature of land, i.e. commercial/residential, vide award dated 28.07.2011 (Annexure P-5) passed in **Smt. Lilawati's case (supra)**. The said award further attained finality, having been implemented by NHAI in the year 2020 in execution proceedings. Accordingly, the present petition has been instituted seeking setting aside of the impugned award dated 18.01.2024 and for grant of parity in compensation in favour of the petitioner.

CONTENTION(S) :-

ON BEHALF OF THE PETITIONER

[4] Learned counsel for the petitioner submits that there was a clear-cut discrimination done with the petitioner-landowner as for the same very acquisition; pertaining to the same revenue estate especially, for the same nature of land i.e. commercial/residential, the claim of the petitioner has been dismissed, whereas some identically placed landowners were

granted the benefit at the rate of Rs.2,30,000/- per marla. He thus submits that keeping in mind the principles of granting just and fair compensation to the petitioner-landowner against compulsory acquisition of landholding, the award dated 18.01.2024 passed by the learned Arbitrator is required to be set aside as the petitioner-landowner is entitled for the similar benefit of award of market value at the rate of Rs.2,30,000/- per marla. Learned counsel thus prays that the present writ petition needs to be allowed in the aforesaid terms.

[4.1] Learned counsel for the petitioner further contends that the scope of interference under Section 34 of the Arbitration and Conciliation Act, 1996 is strictly limited. It is submitted that the Court is vested only with the power to set aside an arbitral award and does not possess the jurisdiction to modify the same and enhance the compensation and as such, despite alternate statutory remedy being available, the present petition was required to be entertained, so as to deal with the discrimination met by the petitioner. In support, learned counsel places reliance upon the decision rendered by the Hon'ble Apex Court in case of "Project Director, NHAI v. M. Hakeem" reported as 2021 AIR Supreme Court 3471. Relevant paragraphs thereof are extracted hereunder for reference:-

40. It can therefore be said that this question has now been settled finally by at least 3 decisions of this Court. Even otherwise, to state that the judicial trend appears to favour an interpretation that would read into Section 34 a power to modify, revise or vary the award would be to ignore the previous law contained in the 1940 Act; as also to ignore the fact that the 1996 Act was enacted based on the UNCITRAL Model Law on International Commercial Arbitration, 1985 which, as has been pointed out in Redfern and Hunter on International Arbitration, makes it clear that, given the limited judicial interference on extremely limited grounds not

dealing with the merits of an award, the 'limited remedy' under Section 34 is coterminus with the 'limited right', namely, either to set aside an award or remand the matter under the circumstances mentioned in section 34 of the Arbitration Act, 1996.

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46. *Quite obviously if one were to include the power to modify an award in Section 34, one would be crossing the Lakshman Rekha and doing what, according to the justice of a case, ought to be done. In interpreting a statutory provision, a Judge must put himself in the shoes of Parliament and then ask whether Parliament intended this result. Parliament very clearly intended that no power of modification of an award exists in section 34 of the Arbitration Act, 1996. It is only for Parliament to amend the aforesaid provision in the light of the experience of the courts in the working of the Arbitration Act, 1996, and bring it in line with other legislations the world over."*

ON BEHALF OF RESPONDENT Nos. 1 & 2-NHAI

[5] On the other hand, learned counsel for respondent Nos.1 & 2 submits that against the award of learned Arbitrator, the petitioner has the remedy to file objections under Section 34 of the Arbitration & Conciliation Act, 1996 and as such, the present writ petition is not maintainable at all. Learned counsel further contends that the petitioner could not prove before the learned Arbitrator that he was entitled for the same compensation as was granted in Smt. Lilawati's case (supra) and, therefore, the present writ petition was liable to be dismissed.

DISCUSSION AND REASONING

[6] After hearing learned counsel for the parties and having gone through the paper-book/record, I find substance in the submission(s) made on behalf of the petitioner.

[7] At the outset, it may be noticed here that the *lis* in the present case arises out of the compulsory acquisition of land which essentially needs to be followed and dealt with by award of just and fair compensation to the landowner. In the present case, it has not been disputed that the land of the petitioner herein as well as the land owned by Lilawati and others, who happened to be the applicant(s) in arbitration case i.e. *MA No. 494 of 2009 (supra)*, formed part of the same revenue estate of Village Dugri Rajputan, Tehsil Mukeria, District Hoshiarpur and was notified under Section 3-A of the 1956 Act on 24.12.2004 followed by notification dated 11.07.2005 issued under Section 3-D thereof. Common award under Section 3-G (1) of the 1956 was passed by respondent No. 3 on 23.04.2008, whereby the market value was assessed at the rate of Rs.50,000/- per marla for commercial land and Rs. 27,000/- per marla for residential land. A comparative analysis of the proceedings initiated at the instance of the petitioner and that of Smt. Lilawati, in relation to their respective claims for enhancement of compensation under Section 3-G(5) of the 1956 Act, is set out hereunder:-

Petitioner-landowner herein		Smt. Lilawati and others (Identical landowners)	
Date(s)	Proceedings	Date(s)	Proceedings
24.12.2004	3-A Notification	24.12.2004	3-A Notification
11.07.2005	3-D Notification	11.07.2005	3-D Notification
28.04.2011	Arbitration case bearing MA No.286 of 2009 decided by the learned Arbitrator while awarding market value at the rate of Rs. 1.50 lakhs per marla for commercial and Rs. 1.25 lakh for residential.	28.07.2011	Arbitration Case bearing MA No. 494 of 2009 decided by the learned Arbitrator, while awarding market value at the rate of Rs. 2,30,000/- per marla for the entire acquired land
19.04.2012	Allowed Objections under Section 34 of the 1956 Act preferred by respondent Nos. 1 & 2-NHAI before the Court of Additional District Judge, Jalandhar, while setting aside the Award and remanding the case back to learned Arbitrator	----	No challenge to the aforesaid award dated 28.07.2011.

	for fresh decision.		
-----	-----	17.02.2020	Execution Application bearing EXE-1065-2018 dismissed as withdrawn being partly satisfied by the learned Additional District Judge, Jalandhar.
18.01.2024	After about 12 years of the remand order, the learned Arbitrator vide award dated 18.01.2024 dismissed the claim petition ignoring the award dated 28.07.2011 of the same village and of the same acquisition for the same purpose pertaining to same kind of land.		

[7.1] From the above, it is evident that the claim petition filed by the petitioner-landowner herein, whose land was acquired under the same notification has been dismissed, whereas the identically placed Smt. Lilawati and others have been granted the benefit at the rate of Rs. 2,30,000/- per marla though for the same nature of land. Such differential treatment among landowners against acquisition of their land pursuant to the same notification and from the same revenue estate is patently arbitrary and amounts to hostile discrimination against the petitioner. Such an arbitrary action strikes at the very root of Constitution of India, particularly the mandate of Article 14 guaranteeing equality before law and equal protection of laws.

[8] Moreover, the Hon’ble Supreme Court in **Civil Appeal No.7064 OF 2019 (Arising out of SLP (C) No.9599 OF 2019)**, titled as **“Union of India v. Tarsem Singh”** even went on to hold that similarly situated landowners cannot be denied parity in the matter of compensation merely because the acquisition is undertaken under a different statutory regime. In order to maintain the parity and to avoid discrimination, the Court held that the benefits of solatium and interest under Sections 23(1A), 23(2) and 28 of

the Land Acquisition Act, 1894 would apply to acquisitions under the National Highways Act, 1956 as well, and consequently held Section 3J of the National Highways Act to be violative of Article 14 to that extent. Relevant excerpt is reproduced hereunder:-

“41.We therefore declare that the provisions of the Land Acquisition Act relating to solatium and interest contained in Section 23(1A) and (2) and interest payable in terms of section 28 proviso will apply to acquisitions made under the National Highways Act. Consequently, the provision of Section 3J is, to this extent, violative of Article 14 of the Constitution of India and, therefore, declared to be unconstitutional. Accordingly, Appeal @ SLP (C) No. 9599/2019 is dismissed.....”

In the present case, the matter rests on an even stronger pedestal. Here, the land of both the landowners was acquired under the very same statute, i.e., the 1956 Act, pursuant to the same acquisition process. Once the Apex Court has emphasized parity even across different statutes, there can be no conceivable justification for awarding differential compensation to identically situated landowners whose lands were acquired under the same statute, the same notification, the same nature and even the same revenue estate.

[9] Even otherwise, the Hon’ble Apex Court in catena of judgments has held that the landowners whose lands are acquired under the same acquisition proceedings need to be awarded similar amount of compensation.

[9.1] The Hon’ble Supreme Court in ***Civil Appeal No. 303 of 2017 (Arising from SLP ©No. 5108 of 2014)***, titled as ***“A.V. Subramanian vs. Union of India”*** held as under:-

- “5. We may not have any quarrel with the legal position. However, having regard to the factual position that in a land acquisition case the claimants have received different amounts by way of compensation and that too in respect of the lands of same nature covered by the same notification and acquired for the same purpose, we are of the view that all these technicalities should give way since they are procedural and which can still be cured. We do not think that the appellant should be driven to such steps having regard to the factual position we have referred to above.
6. Therefore, we are of the view that the lis should be given a quietus. For doing complete justice, we hold that the appellant shall be entitled to the benefit of the judgment of this court dated 08.11.2005 passed in Civil Appeal No.1500 of 2004.”

[9.2] In another case bearing **Civil Appeal No. 10429-10430 of 2017 (Arising out of SLP Nos. 2354-2355 OF 2017)** titled as “**Narender and Ors. vs. State of Uttar Pradesh and Ors.**”, the Hon’ble Apex Court observed as under:-

“It is to be kept in mind that in the matter of compulsory acquisition of lands by the Government, the villagers whose land gets acquired are not willing parties. It was not their voluntary act to sell of their land. They were compelled to give the land to the State for public purpose. For this purpose, the consideration which is to be paid to them is also not of their choice. On the contrary, as per the scheme of the Act, the rate at which compensation should be paid to the persons divested of their land is determined by the Land Acquisition Collector. Scheme further provides that his determination is subject to judicial scrutiny in the form of reference to the District Judge and appeal to the High Court etc. In order to ensure that the land owners are given proper compensation, the Act provides for ‘fair compensation’. Once such a fair compensation is determined judicially, all land owners whose land was taken away by the same Notification should become the beneficiary thereof. Not only it is an aspect of good governance, failing to do so would also amount to

discrimination by giving different treatment to the persons though identically situated. On technical grounds, like the one adopted by the High Court in the impugned judgment, this fair treatment cannot be denied to them”.

[9.3] In yet another case, titled “***New Okhla Industrial Development Authority vs. Harnand Singh***”, reported as ***2024(3)RCR(Civil)428***, the Hon’ble Supreme Court while allowing miscellaneous applications seeking parity held as under:-

“ 47. In our considered opinion, it would indeed be unfair to single out a few individual landowners and deny them the benefit of just compensation, owing to factors and processes outside their control. Comparing the impact of not allowing these miscellaneous applications solely on grounds of maintainability vis-a-vis allowing them marginally higher compensation in the larger interest of justice-we are persuaded to accede to the landowners' prayers. Disallowing these applications would in a way be against the spirit of Article 14 of our Constitution and will defy the right to treat those placed equally in an equal manner.

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49. Consequently, the landowners in these miscellaneous applications are also held entitled to the new revised rate of INR 403 per sq. yd. for their acquired land.”

[10] Further, the contention raised by the respondents that the petitioner has an alternative remedy of filing objections under Section 34 of the Arbitration and Conciliation Act, 1996, and that the present writ petition is therefore not maintainable, does not merit acceptance. In view of the law laid down in *M. Hakeem’s case*, it is well settled that the scope of interference under Section 34 is narrowly circumscribed; the Court under the said Section is empowered only to set aside an arbitral award and not modify the same. It is pertinent to mention here that the petitioner has been litigating

for nearly two decades in pursuit of just and fair compensation, while similarly situated landowners of the same village, under identical acquisition, have already been granted enhanced compensation vide award dated 28.07.2011. The Court under Section 34 is not empowered to enhance the compensation. In such a scenario, relegating the petitioner to the remedy under Section 34 would, at best, result in setting aside the impugned award and remanding the matter for fresh adjudication, thereby subjecting him to yet another protracted cycle of proceedings, which he has already endured. Such a course would only compound the delay and defeat the ends of justice, for it is trite that justice delayed is justice denied. Further, it would even unnecessary burden the State Exchequer/NHAI of undue interest liability.

[10.1] Further, in the case of *Ram and Shyam Company v. State of Haryana and Others, (1985) 3 S.C.C. 267*, the Hon'ble Supreme Court observed that ordinarily it is true that the court has imposed a restraint in its own wisdom on its exercise of jurisdiction under Article 226 where the party invoking the jurisdiction has an effective, adequate alternative remedy. More often, it has been expressly stated that the rule which requires the exhaustion of alternative remedies is a rule of convenience and discretion rather than rule of law. At any rate, it does not oust the jurisdiction of the Court.

[10.2] In the same regard, reliance is also placed upon *Commissioner of Income Tax and Others v. Chhabil Dass Agarwal, (2014) 1 S.C.C. 603*, the Hon'ble Supreme Court spelt out at least five illustrative and non-exhaustive exceptions to the rule of exhaustion of remedies as follows:-

“(i) Where remedy available under statute is not effective but only mere formality with no substantial relief; or

(ii) Where statutory authority not acted in accordance with provisions of enactment in question, or ;

(iii) Where statutory authority acted in defiance of fundamental principles of judicial procedure, or;

(iv) Where statutory authority resorted to invoke provisions which are repealed, or;

(v) Where statutory authority passed an order in total violation of principles of natural justice.”

[10.3] In fact, a Division Bench of this Court in “***Bir Singh vs. Union of India***” reported as ***2016(5)RCR(Civil)344*** in a similar factual backdrop, declined to relegate the parties to the arbitral process. Taking note of the fact that compensation in respect of similarly situated landowners had already been enhanced and had attained finality, the Court deemed it appropriate, in exercise of its writ jurisdiction, to extend the same benefit rather than compel a fresh reference which would only prolong the matter. Relevant excerpt is reproduced hereinunder:-

“21. In view of the aforesaid judgment, we deem it appropriate to set aside the order passed by the Central Government declining the reference to Arbitrator for determination of amount of compensation. But since the award in respect of the other land owners has attained finality, the procedure for appointment of an Arbitrator will only delay the determination of the amount of compensation and cause unnecessary harassment to the landowners.

22. Consequently, we allow the present writ petitions and direct the respondents to pay the compensation to the land owners in terms of the Award dated 13.01.2012 finalised in respect of the other land owners.”

[10.4] In the present case, the learned Arbitrator, by denying parity to identically placed landowners, has acted arbitrarily and in breach of Article 14, thereby offending the fundamental principles of fair procedure. Moreover, the remedy under Section 34 would not afford any effective or substantive relief, as it is confined only to setting aside the award without

power of modification and enhancement of compensation. Accordingly, in the peculiar facts and circumstances of the case, the exercise of writ jurisdiction under Article 226 of the Constitution, being plenary in nature, is clearly justified to remedy the manifest arbitrariness and to ensure that the petitioner is granted just and equitable compensation.

[11] Although the scope of interference under writ jurisdiction against arbitral awards rendered under the Arbitration and Conciliation Act, 1996 is undoubtedly limited, the same principle cannot be applied with equal rigidity to arbitration proceedings conducted under the National Highways Act, 1956. The latter contemplates a form of statutory arbitration, wherein the Arbitrator is appointed by the Central Government, unlike consensual arbitration contemplated under section 10 and 11 of the 1996 Act where the appointment of the arbitrator is primarily founded upon the party autonomy of the disputants. Also, given that such arbitrators are appointed by the Central authority itself, the possibility of perceived institutional bias or lack of complete neutrality cannot be altogether ruled out. In such circumstances, a writ court exercising jurisdiction under Articles 226/227 of the Constitution of India may be justified in exercising a broader supervisory scrutiny to ensure justice, fairness, parity to the aggrieved landowner. Furthermore, most recently, a 3 Judge-Bench of the Hon'ble Supreme Court presided over by Hon'ble the Chief Justice of India in the case of ***M/s Riar Builders Pvt Ltd &Anr. v. Union of India & Ors.*** reported as ***2026 LiveLaw (SC) 65*** while suggesting reanalysis of the legislative scheme for parity in compensation mechanisms for land acquisition observed as under:-

“ 5. *Adverting to the main case, it has transpired during the course of the hearing that under the 1956 Act, the remedy provided to an expropriated land owner/interested party, if such person is*

aggrieved by the rate of compensation determined by the competent Authority, is to invoke arbitration under Section 3G(5) read with provisions of the 1996 Act. Such an arbitration petition is adjudicated not by a judicial authority but by an officer notified by the Central Government. Invariably, the Collectors or Commissioners of the Revenue Districts/Divisions are notified to act as arbitrators. These officers are generally pre-occupied with their multiple administrative responsibilities and they also do not have the desired experience of a judicially trained mind to adjudicate the complex issues like determination of market value of the land or other statutory benefits to which the affected parties are now entitled to in light of the decision of this Court Union of India & another v. Tarsem Singh & others, (2019) 9 SCC 304, as well as the subsequent amendments made by the Parliament in the 1956 Act.

6. *Not only this, the further recourse left to an aggrieved expropriated land owner or any other interested party is to file an appeal under Section 34 of the 1996 Act, followed by a further appeal under Section 37 of the 1996 Act before the High Court. By now, the restricted and limited scope of interfering with an arbitral award, by a superior forum in purported exercise of its powers under Sections 34 or 37 of the 1996 Act, as the case may be, has been well defined by this Court in a catena of judgments.*
7. *Contrarily, the expropriated land owners/interested persons, whose lands were earlier being acquired under the Land Acquisition Act, 1894 (in short, the "Old Act"), were entitled to seek further enhancement through a reference under Section 18 of the Old Act and such references were decided only by the Judicial Courts, comprising a Presiding Officer in the rank of District Judge/Additional District Judge. There was a further remedy of first appeal before the High Court, and thus even the High Court had the power to re-appreciate and re-appraise the evidence and then form an opinion re: market value of the acquired land.*
8. *Such a recourse for the expropriated land owners and other interested parties has been further widened by the grant of*

additional statutory benefits and a higher rate of compensation under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, the "New Act").

9. *It may, thus, be seen that the land owners, whose land is acquired under the 1956 Act, vis-a-vis the land owners whose lands are acquired now under the New Act, have been treated as separate classes, apparently without any intelligible differentia. This leads to grave heartburn among the land owners of the first category, namely, those whose lands are acquired under the 1956 Act.*
10. *While there seems to be a lot of legislative wisdom discernible from the mechanism encapsulated under the 1956 Act, to the effect that the acquisition under this Act must take place in a time-bound and expeditious manner so that the development of National Highways is not hampered or delayed. Though such a legislative policy is laudable, prima facie, it seems that this object can be kept intact while ensuring the land owners that they will be entitled to assessment of compensation for the acquired land in the same manner as is determined for the land owners whose lands are acquired under the Old Act or under the New Act, even when such acquisition is also for infrastructural development.*
11. *Keeping these factors in view, we implore and suggest that the Union of India should revisit the legislative scheme and consider the desirability of bringing parity in the matter of providing a mechanism for the determination of the market value of acquired land with reference to Article 300A of the Constitution of India.”*

[12] As such, in the peculiar facts and circumstances of the present case, the petitioner-landowner has been left with no efficacious remedy at this stage. Thus, judicial review conferred upon this Court under Article 226 of the Constitution of India, needs to be invoked in order to do complete justice between the parties and also to avoid the discrimination with which the petitioner has been meted out.

[13] In view of the aforesaid, and in order to obviate further delay and unnecessary hardship that would ensue from a remand for fresh adjudication, this Court considers it just and appropriate to set aside the award dated 18.01.2024 passed by the learned Arbitrator. Accordingly, the petitioner-landowner is held entitled to compensation at the rate of Rs.2,30,000/- per marla, along with all consequential statutory benefits, in parity with the award dated 28.07.2011 rendered in *Smt. Lilawati’s case (supra)*.

[14] With the aforesaid observations, the present petition is disposed of.

[15] Pending miscellaneous application(s), if any, shall also stand disposed of.

April 07, 2026
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No