2025:PHHC:105659-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

204 **LPA-871-2020(O&M)**
Date of Decision : **August 13, 2025**

EXECUTIVE ENGINEER, HC-II HYDRO ELECTRIC PROJECT, HSEB

.....Appellant

VERSUS

NARESH KUMAR AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR

Present : Ms. Nikita Goel, Advocate for the appellant.

Mr. Vijay Kumar Jindal, Sr. Advocate assisted by
Mr. Gopal Soni, Advocate for the respondents.

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ASHWANI KUMAR MISHRA, J. (Oral)

1. This appeal is by the Executive Engineer, HC/II Hydro Electric Project, HSEB-appellant challenging the judgment and order passed by the learned Single Judge dated 04.03.2020, whereby the claim of the respondents for appointment on account of their lands having been acquired for establishment of Hydro Electric Plant has been allowed. Aggrieved by the judgment of the learned Single Judge, the Corporation is before us in the present appeal.

2. It is not in dispute that a notification under Section 4 of the Land Acquisition Act, 1894 was issued proposing to acquire land in different villages on 02.12.1996. A subsequent declaration under Section 6 of the Act was then issued on 08.04.1997. Award in respect of the said land was passed

on 14.10.1997. It is not in issue that the compensation amount determined for acquisition of land has been paid to the respondents. At the time when the acquisition of land was made, the acquiring body was the Haryana State Electricity Board (hereinafter referred to HSEB), which has been segregated into four different Corporations one of which is the Hydro Power Generation Corporation, Bhudkalan, District Yamuna Nagar. Pursuant to transfer agreements, the land ultimately is given to the appellant-Corporation. The writ petition came to be filed by the respondents in the year 2015 claiming appointment in the category of the land oustees under the policy framed by the HSEB on 06.05.1985. It is not in dispute that the policy providing for grant of appointment to the land oustees has since been withdrawn by a separate notification issued by the competent authority on 11.01.1988. It, therefore, remains undisputed that on the date of acquisition of the land belonging to the respondents, there existed no policy for grant of appointment to the land oustees. The learned Single Judge, however, has allowed the writ petition by placing reliance upon the judgment of this Court rendered in **Dharmender Singh Vs. State of Haryana and others (CWP No.6505 of 2013)** as well as the judgment of the learned Single Judge in **CWP No.10372 of 2013, Barkha Ram and others Vs. State of Haryana and others**.

3. Learned counsel for the appellant submits that the judgment of the learned Single Judge in the case of Dharmender Singh (supra) arose out of the acquisition proceedings undertaken for establishment of a thermal power plant in respect of which a policy was in existence for grant of appointment to the land oustees. He, therefore, submits that the judgment relied upon by the learned Single Judge to grant the relief cannot justify the

directions issued by the learned Single Judge for offering the appointment to the land oustees. It is also submitted that the writ petition itself has been filed after nearly 20 years and there was absolutely no reason brought on record to justify such belated entertainment of a petition for grant of appointment in favour of the respondents. She submitted that the judgment of the learned Single Judge issuing direction for providing appointment to the respondents is, therefore, wholly unjustified.

4. Learned Senior counsel for the respondents submits that the scheme for providing appointment to the land oustees is a beneficial piece of policy framed by the State and, therefore, this Court in exercise of its appellate jurisdiction may not interfere with the discretion exercised by the learned Single Judge. It is also argued that even after the policy was withdrawn by the Corporation, certain persons were issued appointment by the Haryana Power Generation Corporation Ltd. itself. The appointment letter was issued to one Ravi Saharan on 26.07.2011. It is also submitted that subsequent point of time, the policy has been introduced by the State of Haryana for issuing appointment to the land oustees and, therefore, at this late stage it would not be appropriate to interfere with the judgment of the learned Single Judge.

5. We have heard the learned counsel for the parties and perused the material on record.

6. The facts as have been noticed earlier are not in dispute. It remains undisputed that the land in question came to be acquired in the year 1996. The acquisition proceedings attained finality by the year 1997 when the award was made by the Collector determining the rate of compensation. The tenure holders whose lands were acquired accordingly received the

compensation and apparently were contented with it. No claim for any compassionate appointment was raised. It is after nearly 20 years of such acquisition that an application came to be filed by the respondents claiming appointment on account of their falling in the category of land oustees. It was stated that previous representations were made, which had not been bestowed consideration. However, the grievance in that regard was never pressed and it was only in the year 2015 that the writ petition came to be filed before this Court.

7. So far as the entitlement of the tenure holders to receive benefits on account of acquisition of land is concerned, such rights will flow from the provisions under the erstwhile Land Acquisition Act, 1894. The Act of 1894 is a self contained code, which provides for payment of compensation as per the market rate. There is no provision in the Act of 1894 providing for appointment to be offered to the land oustees.

8. So far as the policy framed by the appellant, the predecessor-in-interest in the year 1985 for grant of compassionate appointment is concerned, such policy stood withdrawn in the year 1988. Therefore, it is apparent that on the date when the land was acquired in the year 1996, there existed no policy providing for compassionate appointment to the land oustees. In such circumstances neither under the provisions of the Land Acquisition Act, 1894 nor under the policy of the competent authority any entitlement arose in favour of the land oustees to claim compassionate appointment. It is apparently for this reason that no claim at that stage was raised.

9. It is after 20 years that a writ petition has been filed claiming the appointment on the ground of the respondents land having been acquired. We

fail to understand that as to how such a writ petition could be entertained after such a long lapse of time. Even when the policy existed earlier, it was only to help the family whom its land was acquitted. The justification for granting such appointment would not subsist after expiry of nearly 20 years. The policy never envisaged any right to be created in favour of the heirs of the tenure holders for compassionate appointment such that it could be raised at any point of time. We, therefore, find substance in the contention advanced by the learned counsel for the appellant that the writ petition itself ought not to have been entertained after nearly 20 years.

10. Coming to the aspect of grant of similar relief by the learned Single Judge in other matters, we find that the facts of the case relied upon by the learned Single Judge were clearly distinguishable and have no applicability in the present case in as much as the judgment in the case of Dharmender Singh's case (supra) arose out of acquisition proceedings for establishment of a thermal plant in respect of which a policy did exist for grant of compassionate appointment. The claim otherwise was raised within a reasonable time. In such circumstances, the judgment in Dharmender Singh's case (supra) or the subsequent judgment in the case of Barkha Ram's case (supra) were distinguishable and could not have been relied upon to grant the relief in favour of the respondents, when such a policy otherwise did not exist. The only other ground pressed on behalf of the respondents is that the Corporation itself has granted appointment to some persons in the year 2011. We are not impressed by such arguments in as much as in the absence of their being any entitlement in law, as has been noticed above, any grant of benefit

dehors the policy would not constitute any basis of claim for grant of similar benefits to the respondents. It is well settled that parity is a equitable concept based on principles of equity which cannot be permitted to claim relief contrary to law.

11. In such view of the matter, this appeal succeeds and is allowed. The order passed by the learned Single Judge dated 04.03.2020 is set-aside. The writ petition is accordingly dismissed.

12. All pending application(s), if any, also stand disposed of accordingly.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

August 13, 2025
ajaysharma

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No